

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Trademark Application
Serial No.: 78/229,875
Mark: MESSAGE IN A BOTTLE

Opposition No. 91162780

Cancellation No. _____

GOLD SHELLS, INC.,
a California corporation,
Opposer,

v.

KEITH CANGIARELLA,
Applicant.

APPLICANT'S REQUEST FOR LENIENCY



08-29-2006

U.S. Patent & TMO/TM Mail Rcpt Dt. #

In the Matter of Trademark
Registration No.: 2,243,269
Mark: MESSAGE IN A BOTTLE

KEITH CANGIARELLA,
Petitioner,

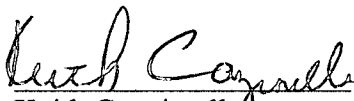
v.

Gold Shells, Inc.,
Opposer

APPLICANT'S REQUEST FOR LENIENCY
"IN PRO PER"

Applicant, Keith Cangiarella, request for leniency in the matter of the missing Declaration in support of motions for summary judgments. Applicant accidentally did not send declaration with original papers, and did not know until receiving response to motions from Opposer. Opposer's counsel may have tried to contact Applicant, but Applicant was unavailable during the Opposer's response time. The Applicant request for leniency for this oversight as the Applicant is acting pro se, out of financial necessity and has no prior experience in these matters. It does not appear that any damage has been done to the Opposer because of this inadvertent omission. All exhibits the Opposer has been privy to through discovery/proceedings and general legal knowledge.

The Applicant has attached the Declaration of Keith Cangiarella in Support of Applicant's Motions for Summary Judgement.



Keith Cangiarella

"In Pro Per"

331 N. Harrington Dr

Fullerton, CA. 92831

Date August 23, 2006

DreamWeaver Studios

Keith Cangiarella

331 N. Harrington Dr

Fullerton, CA. 92831

714-441-3442 phone

714-464-4112 fax

1mib@dreamweaverstudios.com

I hereby certify that this correspondence is being deposited with the US postal service as Priority mail in an envelope addressed to: UNITED STATES PATENT AND TRADEMARK OFFICE Trademark Trial and Appeal Board P.O. Box 1451 Alexandria, VA 22313-1451

Certificate of Service

I hereby certify a copy of the foregoing **APPLICANT'S REQUEST FOR LENIENCY** was first class mailed to Mr. Peter H. Smith Attorney at law, 1535 J Street, Suite A, PO Box 1867, Modesto, CA. 95353.



Keith Cangiarella

August 23, 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Trademark Application Serial No.: 78/229,875 Mark: MESSAGE IN A BOTTLE GOLD SHELLS, INC., a California corporation, Opposer, v. KEITH CANGIARELLA, Applicant.	Opposition No. 91162780 Cancellation No. _____ DECLARATION OF KEITH CANGIARELLA IN SUPPORT OF MOTIONS FOR SUMMARY JUDGMENT
----- In the Matter of Trademark Registration No.: 2,243,269 Mark: MESSAGE IN A BOTTLE KEITH CANGIARELLA, Petitioner, v. Gold Shells, Inc., Opposer	

**DECLARATION OF KETH CANGIARELLA IN SUPPORT
OF MOTIONS FOR SUMMARY JUDGMENT
"IN PRO PER"**

Keith Cangiarella, declares:

1. I am the Applicant and owner of Trademark Application Serial No. 78/229875 for the mark MESSAGE IN A BOTTLE. I am over the age of 18 and, if called, I would competently testify to the following:
2. Since at least as early as March 10, 1998, I have used the mark MESSAGE IN A BOTTLE in United States commerce as related to my goods and services, particularly including, without limitation: novelty, favor, and souvenir bottle containing messages and greetings, invitations, promotional materials of others, and advertising materials of others; kits comprised of bottles, paper for creating promotional messages, advertising messages, greetings, messages and invitations and packaging and boxes for mailing in International Trademark Class 016.

3. During the discovery period numerous exhibits were exchanged between parties the following exhibits support the motions for summary judgment along with the Supporting evidence in motions for summary judgment:

Exhibit A: A complete trademark research report was provided by Opposer, but only the relevant parts have been sent in. This exhibit demonstrates prior knowledge of the proper way to classify goods and services as well as reciting a clear, definitive and specific recitation of good and services.

Exhibit B: Consists of numerous business licenses as well as a Dun and Bradstreet that show the numerous different ways the Opposer and its predecessor used the Mark.

Exhibit C: Several letters between Opposer and its predecessor sent to Yahoo(formerly Overture,Inc). It is important to note Letter from Jeffrey C. Cannon dated January 27, 2004, demonstrates the Opposer and its predecessor had not advertised via the world wide web and pay per click until after Jan. 27, 2004, nor had they enforced their "intellectual property rights".(" used to question those rights)

Exhibit D: During discovery Opposer provided complete printout of all of its website webpages, I have selected several to demonstrate the overzealous use of the Mark on the website, no party would be able to understand what the mark is being applied to.

Exhibit E: Opposer's website pages FAQ(frequently asked questions) clearly demonstrates that the Opposer does not transmit communications but has a third party such as the US Postal service deliver it.

Exhibit F: Website and shopping cart of Opposer's website, to begin one must choose a bottle, then enter a message or choose a prewritten one, next you review your **order**(emphasis added), enter billing information, determine whom to ship it to, if different than self, enter recipient details, then select shipping method, Express Mail or Priority Mail, credit card info, order is sent. This clearly demonstrates the Opposer is not providing the services stated in its deceptively descriptive services in registration.

Exhibit G: Several correspondences between I and Roger Rojas, the first is an email from I to Roger Rojas, which has been misinterpreted and taken out of context, as it was written by I, a business owner, and entrepreneur without any legal advice. I state we had developed similar products, I had no way of knowing based on Roger Rojas' trademark that he was or would be developing a tangible product, I had no knowledge of his website until 2004.

Exhibit H: Motion of Respondent Roger Rojas for Substitution of Gold Shells, Inc, as Respondent was submitted to the board on June 16, 2005 and on June 29, 2005 the board noted and accepted Gold Shells, Inc as the Opposer and Counterclaim Defendant, see Exhibit I

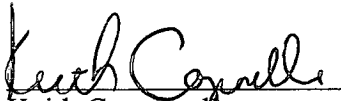
Exhibit J: A copy of the my websites homepage, depicting how the product is perceived by our customers, customers must choose a collection, select a product, click on the screen to order now, the **order**(emphasis added) form, shows the product ordered an opportunity to add a personal message, select items to be added to the gift, choose the paper your message is printed on, sender info, recipient info, then select your shipping method, via a third party US postal or Fedex.

Exhibit K: Trademark Manual of Examining Procedures Chapter 1400 – Classification and Identification of Goods and Services Subchapter 1402 Identification of Goods and Services

1402.01 Specifying the Goods and/or Services – in General – the TMEP clearly states *The identification of goods and services must be specific, definite, clear, accurate and concise.*

4. The exhibits in the Motion for Summary judgment for the dismissal of the Opposer's Opposition are all relevant and clearly depict Opposer's overly broad and deceptively descriptive services, and the services are generic.
5. The exhibits in the Motion for Summary judgment for cancellation of Opposer's mark clearly demonstrate the Opposer committed fraud before the PTO, by being overly broad and deceptively descriptive services, and the services are generic.
6. I hereby attest under penalty of perjury as to the foregoing.

Dated June 30, 2006



Keith Cangiarella

"In Pro Per"

331 N. Harrington Dr
Fullerton, CA. 92831

Date June 30, 2006

DreamWeaver Studios

Keith Cangiarella

331 N. Harrington Dr

Fullerton, CA. 92831

714-441-3442 phone

714-464-4112 fax

1mib@dreamweaverstudios.com

I hereby certify that this correspondence is being deposited with the US postal service as Priority mail in an envelope addressed to: UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board P.O. Box 1451 Alexandria, VA 22313-1451

Certificate of Service

I hereby certify a copy of the foregoing **DECLARATION OF KEITH CANGIARELLA IN SUPPORT OF MOTIONS FOR SUMMARY JUDGMENT** was Priority mailed to Mr. Peter H. Smith Attorney at law, 1535 J Street, Suite A, PO Box 1867, Modesto, CA. 95353.



Keith Cangiarella

June 30, 2006



Trademark Resear

3

Client Name: PETER H SMITH ATTY AT LAW

Attention: PETER H SMITH

Date Received: November 18, 1996

Received by: Telephone

Date Mailed:

Mark Searched: MESSAGE IN A BOTTLE

Type of Search: FULL SEARCH

Goods/Services: MESSAGE DELIVERY SERVICE

Exhibit A.

We have taken all reasonable steps to ensure the completeness and accuracy of this report. However, for various reasons -- including the subjective nature of trademark searches, and incomplete or inaccurate data provided by the U.S. Patent and Trademark Office, the Secretary of State Offices, Industry Canada / Canadian Intellectual Property Office, Mexican Institute for Industrial Property, Dun & Bradstreet, American Business Information, the various publishers of information used for our Common Law reports, and Network Solutions, Inc. -- we cannot warrant that this report is complete or error-free. AS A RESULT, WE DISCLAIM ALL WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. This search is valid only for the mark and goods noted above. If the mark or goods which were the subject of this search are changed, even slightly, a new search should be conducted.

Any liability arising out of the preparation of this report is limited to a refund of the search fee paid. Acceptance of this search constitutes an acceptance of the aforesaid terms, conditions, and limitations. This report in no way constitutes a legal opinion.

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ANALYST REVIEW - USPTO REPORT

Mark Searched: MESSAGE IN A BOTTLE
 Goods/Services: MESSAGE DELIVERY SERVICE
 Type of Search: FULL SEARCH

For this PTO search I have examined ACTIVE applications and registrations as released by the U.S. PATENT and TRADEMARK OFFICE.

Information for this report covers the following dates (except for a small number delayed by the USPTO).

OFFICIAL GAZETTE: PUBLISHED ON 11/19/96

USPTO TEXT: FILED THROUGH 10/17/96

IMAGES: FILED THROUGH 10/21/96

INACTIVE trademarks (not renewed, cancelled or abandoned) from January 1, 1979 on, have been examined.

Analyst: JOHN MEADE

Comments: I DEVELOPED THE FOLLOWING SEARCH STRATEGY TO PROVIDE A COMPREHENSIVE, ACCURATE REPORT. THESE QUERIES, LISTED BELOW, RETRIEVED 467 POTENTIAL REFERENCES FROM THE DATABASE. AFTER CAREFUL REVIEW AND ANALYSIS I SELECTED 61 RECORDS FOR YOUR REVIEW.

THIS SEARCH ALSO INCLUDES INFORMATION PHOTOCOPIED FROM APPLICATION DRAWING PAGES FILED THROUGH 10/28/96. THERE ARE ADDITIONAL "MESSAGE" FORMATIVES FOR MESSAGE DELIVERY RELATED PRODUCTS AND SERVICES.

No pertinent references were found in the search of our Shepard's United States Citations database.

The following search strategy was developed for this USPTO report:

Type	Query	Classes
1. PREFIX	ME(S,SS)A(G,J)EINABO(T,TT)L	ALL CLASSES
2. LETTERSTRING LETTERSTRING	ME(S,SS)A(G,J) <and> BO(T,TT)L	ALL CLASSES
3. LETTERSTRING GOODS PREFIX	ME(S,SS)A(G,J) <and> (DELIV,COURIER,MAIL,MESSAG)	ALL CLASSES
4. LETTERSTRING GOODS PREFIX	BO(T,TT)L <and> (DELIV,COURIER,MAIL,MESSAG)	ALL CLASSES
5. EXACT MARK	MESSAGE(0 - 255 characters)	16,21,35,36,37,38,39,40,41, 42

Type	Query	Classes
6. LETTERSTRING	BOTTLE	16,21,35,36,37,38,39,40,41, 42

Class Identification:

- 16 - PAPER GOODS AND PRINTED MATTER
- 21 - HOUSEWARES AND GLASS
- 35 - ADVERTISING AND BUSINESS SERVICES
- 36 - INSURANCE AND FINANCIAL SERVICES
- 37 - CONSTRUCTION AND REPAIR SERVICES
- 38 - COMMUNICATIONS SERVICES
- 39 - TRANSPORTATION AND STORAGE SERVICES
- 40 - MATERIAL TREATMENT SERVICES
- 41 - EDUCATION AND ENTERTAINMENT SERVICES
- 42 - MISCELLANEOUS SERVICE MARKS

MESSAGE IN A BOTTLE

Trademark	Registration Number	Serial Number	Int. Classes	Status	
1. MESSAGE IN A BOTTLE	R000000	75-084349	3	PENDING	Page 8
2. MESSAGE IN A BOTTLE	R000000	73-608380	16	ABANDONED	Page 8
3. MESSAGE IN A BOTTLE	R000000	74-480875	16	ABANDONED	Page 9
4. MESSAGE IN A BOTTLE	R1499093	73-599935	20	CANCELLED	Page 9
5. MESSAGE IN A BOTTLE	R000000	73-342921	20,21	ABANDONED	Page 10
6. PASSION POP MESSAGE IN A BOTTLE HAPPY BIRTHDAY	R1438061	73-598232	20	CANCELLED	Page 10
7. S.O.S. MESSAGE IN THE BOTTLE..	R000000	73-448260	16	ABANDONED	Page 11
8. MESSAGE AGENT	R000000	74-557810	9	PUBLISHED	Page 11
9. MESSAGE ALERT	R000000	75-025872	9	PENDING	Page 12
10. MESSAGE CARD	R1801442	74-236719	9	REGISTERED	Page 13
11. MESSAGE CLERK	R1802617	74-276373	9	REGISTERED	Page 13
12. MESSAGE DESK	R1842775	74-386589	9,38	REGISTERED	Page 14
13. MESSAGE EXPRESS	R1827262	74-328588	9	REGISTERED	Page 15
14. MESSAGE GO-ROUND	R000000	74-717200	9	PENDING	Page 16
15. MESSAGE MANAGER PLUS	R1709735	73-760589	9	REGISTERED	Page 16
16. MESSAGE ON HOLD	R1644315	74-071651	9,35	REGISTERED	Page 17
17. MESSAGE STOPPER	R1841738	74-433819	9	REGISTERED	Page 18
18. MESSAGE MATES	R1826348	74-405776	16	REGISTERED	Page 18
19. MESSAGE-TRAC	R1597416	73-834555	16	REGISTERED	Page 19
20. MESSAGENET	R1627106	74-040855	16	REGISTERED	Page 20
21. MESSAGE MINDER MEDICAL ARTS PRESS	R000000	73-285750	16	ABANDONED	Page 20
22. MESSAGE IMPACT	R1778045	74-161341	35	REGISTERED	Page 21

MESSAGE IN A BOTTLE

Trademark	Registration Number	Serial Number	Int. Classes	Status	
23. MESSAGE WORLD	R1314962	73-474080	35	REGISTERED	Page 21
24. MESSAGEBANK	R1368089	73-532144	35	REGISTERED	Page 22
25. MESSAGE ADVOCATE	R1771881	74-316069	38	REGISTERED	Page 23
26. MESSAGE AMERICA	R1712263	74-225097	38	REGISTERED	Page 23
27. MESSAGE ASSISTANT	R000000	74-568691	38	PUBLISHED	Page 24
28. MESSAGE MAIL	R1922472	74-576328	38	REGISTERED	Page 25
29. MESSAGE NOW	R000000	74-609176	38	PENDING	Page 25
30. MESSAGE PLUS	R1664416	74-048529	38	REGISTERED	Page 26
31. MESSAGE TECHNOLOGIES INC.	R1685857	74-044763	38	REGISTERED	Page 26
32. MESSAGE TO GO	R000000	74-704565	38	PUBLISHED	Page 27
33. MESSAGEBACK	R000000	75-072648	38	PENDING	Page 28
34. MESSAGEFLASH	R000000	74-483817	38	PUBLISHED	Page 28
35. MESSAGELINE	R1615321	73-744602	38	REGISTERED	Page 29
36. MESSAGELINK	R000000	74-734262	38	PENDING	Page 30
37. MESSAGEMASTER	R1847468	74-364508	38	REGISTERED	Page 30
38. MESSAGEMAX	R1609366	73-786102	38	REGISTERED	Page 31
39. MESSAGENOW	R1920242	74-588976	38	REGISTERED	Page 32
40. MESSAGEPOINT	R000000	74-724859	38	PENDING	Page 32
41. MESSAGETRAC	R1874837	74-415509	38	REGISTERED	Page 33
42. MESSAGEWORKS	R000000	74-577500	38	PUBLISHED	Page 34
43. MESSAGEXPRESS	R1869993	74-480635	38	REGISTERED	Page 34
44. BOTTLERS PRESS	R1050257	73-072567	35	REGISTERED	Page 35

MESSAGE IN A BOTTLE

Trademark	Registration Number	Serial Number	Int. Classes	Status	
45. BOTTLE PRESS	R000000	75-184716	35	PENDING	Page 35
46. MORE THAN JUST A BOTTLE	R910745	72-317742	35,42	NOT RENEWED	Page 36
47. MOTIVATION - IF IT COULD BE BOTTLED EVERYONE WOULD BUY IT!	R1611490	73-816161	35	REGISTERED	Page 36
48. BLUE BOTTLE	R1974477	74-426308	37,40	REGISTERED	Page 37
49. BOTTLE PIZAZZ	R000000	75-030723	39	PENDING	Page 38
50. BOTTLEGRAM	R1388278	73-545916	16,39	CANCELLED	Page 38
51. LOVE IN A BOTTLE	R1400275	73-519978	16	CANCELLED	Page 39
52. NOTE IN A BOTTLE	R1728722	74-204638	20	REGISTERED	Page 39
53. TRUST IN A BOTTLE	R000000	75-021040	32,39	PUBLISHED	Page 40
54. BOTTLE MASTER	R551226	71-581159	16	RENEWED	Page 40
55. BOTTLE NOTES	R1618781	74-027706	16	REGISTERED	Page 42
56. THE BOTTLE BRIDLE	R1816883	74-384745	18	REGISTERED	Page 43
57. "BOTTLED THOUGHTS"	R000000	74-392947	20	ABANDONED	Page 43
58. BOTTLED BLESSINGS	R1974068	74-486848	20	REGISTERED	Page 44
59. FLORIE'S BOTTLED CUDDLE	R000000	74-725879	20	PUBLISHED	Page 44
60. BOTTLE BRIDGE	R000000	75-188148	21	PENDING	Page 45
61. TWIN CITY BOTTLE	R1247907	73-366900	39	REGISTERED	Page 45

Ref: 1

**MESSAGE IN A
BOTTLE****MESSAGE IN A BOTTLE**

Status: PENDING
INTENT TO USE
APPROVAL FOR PUBLICATION

Chronology:**File Date:** APR 05, 1996**Serial Number:** 75-084,349**Goods/Services:**

International Class 3: COSMETICS, NAMELY, FACIAL AND SKIN
CLEANSERS, MOISTURIZERS, CREAMS AND LOTIONS, AND HAIR
SHAMPOO AND CONDITIONER

Applicant:

COSMEDIC CONCEPTS, INC.
DBA PHILOSOPHY VOLUME 1
ARIZONA CORPORATION
TEMPE, ARIZONA, 85281

Filing Correspondent:

MARK A. CARLINO
LAW OFFICE OF MARK A. CARLINO
5108 NORTH 40TH STREET, SUITE 3
PHOENIX, AZ 85018

Ref: 2

**MESSAGE IN A
BOTTLE****MESSAGE IN A BOTTLE**

Status: ABANDONED
ABANDONED-FAILURE TO RESPOND

Chronology:**Filed:** JUL 07, 1986**Serial Number:** 73-608,380**Abandoned:** MAY 12, 1987**Goods/Services:**

International Class 16: GREETING CARDS
First Used: JUN 16, 1986 (INTL. CL. 16)
In Commerce: JUN 16, 1986

Applicant:

AMERICAN GREETINGS CORPORATION
OHIO CORPORATION
CLEVELAND, OHIO

Ref: 3

**MESSAGE IN A
BOTTLE****MESSAGE IN A BOTTLE**

Status: ABANDONED
SUPPLEMENTAL REGISTER
SECTION 44 (D)
INTENT TO USE
ABANDONED-EXPRESS

Chronology:**Filed:** JAN 21, 1994**Serial Number:** 74-480,875**Date Suspended:** MAR 06, 1995**Abandoned:** DEC 11, 1995**Goods/Services:**

International Class 16: OCCASION CARDS PACKAGED IN TRANSPARENT
BOTTLES SUITABLE FOR MAILING

Applicant:

S & C PUBLICATIONS LIMITED
UNITED KINGDOM COMPANY
91-93 BUCKINGHAM PALACE ROAD
LONDON SW1W 0RS, ENGLAND

Foreign Application Claimed: 1543853**Foreign Application Date:** AUG 04, 1993**Filing Correspondent:**

ROGER W. PARKHURST
PARKHURST, WENDEL & ROSSI
SUITE 210
1421 PRINCE STREET
ALEXANDRIA, VA 22314

Ref: 4

**MESSAGE IN A
BOTTLE****MESSAGE IN A BOTTLE**

Status: CANCELLED **Cancellation Section:** 8
SUPPLEMENTAL REGISTER

Chronology:**Filed:** MAY 21, 1986**Serial Number:** 73-599,935**Registered:** AUG 02, 1988**Registration Number:** 1,499,093**Cancelled:** MAR 21, 1995**Goods/Services:**

International Class 20: NOVELTY ITEM, NAMELY PLASTIC BOTTLES
CONTAINING PAPER

First Used: APR 01, 1986 (INTL. CL. 20)**In Commerce:** APR 01, 1986**Registrant:**

MONTGOMERY, JOHN R.

INDIVIDUAL
2830 NORTH BURLING
CHICAGO, ILLINOIS, 60657

Filing Correspondent:

EDWARD D. GILHOOLY
20 NORTH WACKER DRIVE
SUITE 1925
CHICAGO, ILLINOIS 60606

Ref: 5

MESSAGE IN A BOTTLE**MESSAGE IN A BOTTLE**

Status: ABANDONED
ABANDONED-FAILURE TO RESPOND

Chronology:

Filed: DEC 17, 1981 **Serial Number:** 73-342,921
Abandoned: MAR 09, 1983

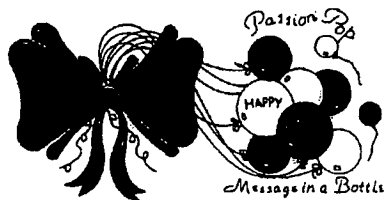
Goods/Services:

International Class 20, 21: SMALL PLASTIC BOTTLES, WITH IDENTITY LABEL, CORK, AND SCROLL INSIDE THE BOTTLE
First Used: JUN 01, 1977 (INTL. CL. 20)
In Commerce: JUN 01, 1977
First Used: JUN 01, 1977 (INTL. CL. 21)
In Commerce: JUN 01, 1977

Applicant:

KCO ENTERPRISES, SANTA BARBARA, CA.

Ref: 6

**PASSION POP MESSAGE IN A BOTTLE HAPPY BIRTHDAY**

Status: CANCELLED **Cancellation Section:** 8

Chronology:

Filed: MAY 12, 1986 **Serial Number:** 73-598,232
Published For Opposition: FEB 03, 1987
Registered: APR 28, 1987 **Registration Number:** 1,438,061
Cancelled: DEC 14, 1993

Goods/Services:

International Class 20: NOVELTY ITEM NAMELY, BOTTLES CONTAINING GREETINGS
First Used: APR 07, 1986 (INTL. CL. 20)
In Commerce: APR 07, 1986

Registrant:

MAYLA ENTERPRISES, INC.
FLORIDA CORPORATION
10756 NORTH KENDALL DRIVE
MIAMI, FLORIDA, 33176

Disclaimers:

"MESSAGE IN A BOTTLE, HAPPY BIRTHDAY"

Filing Correspondent:

JOHN H. OLTMAN
OLTMAN AND FLYNN
415 GALLERIA PROFESSIONAL BUILDING
915 MIDDLE RIVER DRIVE
FORT LAUDERDALE, FLORIDA 33304-3585

Ref: 7



S.O.S. MESSAGE IN THE BOTTLE..

Status: ABANDONED
ABANDONED-FAILURE TO RESPOND

Chronology:

Filed: OCT 17, 1983 **Serial Number:** 73-448,260
Abandoned: NOV 02, 1984

Goods/Services:

International Class 16: MESSAGE IN THE BOTTLE IN DISPLAYS, PACKAGES, AND PACKAGE CONTENTS INCLUDING BOTTLE AND ENVELOPE

First Used: JUN 15, 1979 (INTL. CL. 16)

In Commerce: JUN 15, 1979

Applicant:

GREGORY B. SWAZOE, KIM, CO.

Ref: 8

MESSAGE AGENT

MESSAGE AGENT

Status: PUBLISHED
INTENT TO USE
FIRST EXTENSION - GRANTED JUL 28, 1996

Chronology:

Filed: AUG 04, 1994 **Serial Number:** 74-557,810
Published For Opposition: AUG 01, 1995

Goods/Services:

International Class 9: COMPUTER PROGRAM FOR TELECOMMUNICATION TO PROVIDE CENTRAL-OFFICE BASED CALL ANSWERING, FACSIMILE, AND INTERACTIVE VOICE RESPONSE AND VOICE MESSAGING SERVICES TO SUBSCRIBERS AND CENTRAL OFFICE EQUIPMENT, NAMELY VOICE PROCESSORS, LINE CARDS AND MEMORYDISCS

Applicant:

NORTHERN TELECOM LIMITED
CANADA CORPORATION

380 ST. ANTOINE STREET WEST, 8TH FLOOR
MONTREAL, QUEBEC H2Y 3Y4, CANADA

Disclaimers:

"MESSAGE"

Filing Correspondent:

DONALD L. DENNISON
612 CRYSTAL SQUARE 4
1745 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202

Ref: 9

MESSAGE ALERT

MESSAGE ALERT

Status: PENDING
INTENT TO USE
NON-FINAL ACTION - MAILED

Chronology:

File Date: NOV 30, 1995

Serial Number: 75-025,872

Goods/Services:

International Class 9: ELECTRONIC MESSAGE INDICATOR FOR VOICE
MAIL TELEPHONE SYSTEMS

Applicant:

PRACTICAL TELEPHONY INC.
SAN JOSE, CALIFORNIA, 95129

Assignor: NOTIFY CORPORATION
Brief: SECURITY INTEREST
Recorded: JUN 13, 1996
Reel/Frame: 1481/0534

Assignee: VENTURE LENDING, A DIVISION OF CUPERTINO NATIONAL BANK &
TRUST
CALIFORNIA A NATIONAL BANKING CORPORATION
THREE PALO ALTO SQUARE
PALO ALTO, CALIFORNIA, 94306

Filing Correspondent:

STEPHEN S. FORD
MARGER, JOHNSON, MCCOLLOM & STOLOWITZ
1030 S.W. MORRISON STREET
PORTLAND, OR 97205

Ref: 10

MESSAGE CARD

MESSAGE CARD

Status: REGISTERED
SU - REGISTRATION REVIEW COMPLETE

Chronology:

Filed: JAN 10, 1992 **Serial Number:** 74-236,719
Published For Opposition: SEP 08, 1992
Registered: OCT 26, 1993 **Registration Number:** 1,801,442

Goods/Services:

International Class 9: PAGING AND MESSAGING RECEIVERS
First Used: JAN 1992 (INTL. CL. 9)
In Commerce: JAN 1992

Registrant:

SKYTEL CORP.
DELAWARE CORPORATION
1850 M STREET, N.W.
WASHINGTON, DISTRICT OF COLUMBIA, 20036

Assignor: MOBILE TELECOMMUNICATION TECHNOLOGIES CORP. SKYTEL CORP.
MOBILECOMM EUROPE, INC. MTEL DIGITAL SERVICES, INC. MTEL
CELLULAR, INC. COM/NAV REALTY CORP. MTEL INTERNATIONAL, INC.
MTEL PAGING, INC. MTEL SPACE TECHNOLOGIES CORPORATION MTEL
SERVICE CORPORATION MTEL PCN, INC. MTEL TECHNOLOGIES, INC.
Brief: SECURITY INTEREST
Recorded: JUN 17, 1993
Reel/Frame: 0990/0205

Assignee: CHEMICAL BANK, AS ADMINISTRATIVE AGENT
270 PARK AVENUE NEW YORK, NY 10017-2070

Disclaimers:

"MESSAGE"

Filing Correspondent:

DANIEL Q. GREIF
FINNEGAN, HENDERSON, FARABOW, ET AL.
1300 I STREET, N.W.
WASHINGTON, DC 20005-3315

Ref: 11

MESSAGE CLERK

MESSAGE CLERK

Status: REGISTERED
SU - REGISTRATION REVIEW COMPLETE

Chronology:

Filed: MAY 18, 1992 **Serial Number:** 74-276,373
Published For Opposition: OCT 06, 1992



Small Business
Solutions

MESSAGE IN A BOTTLE

725 PARADISE RD
MODESTO, CA 95351
Phone: 209 521-3653
D-U-N-S® Number: 06-094-4050

Report as of:

D&B has limited data on this business, and insufficient information to determine a Risk of Late Payment for this business. We are providing you the information we have at no charge.

This company will be stored in your Portfolio (accessed via My D&B). D&B will alert you of additional information collected from the company and through external sources.

How much credit should you extend this business?

Upgrade to the Credit eValuator Plus and receive a Credit Limit Recommendation and Payment Trend Information on this company

[Learn More](#)

[Upgrade Now](#)

**Included with this Credit eValuator Report are continuous tracking of key business changes and free Alert messages in your Portfolio (accessed via My D&B). You can also choose to receive e-mail notifications of the important changes. IMPORTANT NOTE: You will not receive e-mail alerts if you have opted out of receiving communications from D&B.

Risk Summary

- Unavailable -

Risk of Late Payment

Risk of late payment is based on the following prioritized factors in addition to other information in D&B's files:

- No factors available

Indications of slowness can be the result of disputes over merchandise, skipped invoices, etc.

- Unavailable -

Payment Performance Trend

The payment performance trend for this company is Unavailable. The most recent payment information in D&B's files is:

- Payments currently: Unavailable.
- Payments 3 months ago: Unavailable.
- Industry average: 3 days beyond terms.

*Note: Payments to suppliers are averaged weighted by dollar amounts.

Chief Executive:
Type of business:
Years in business:
Employees total:

Company Profile

Roger Rojas, Owner
Sole Proprietorship
5
2

Line of business:
Liquor Stores

Legal Filings and Other Important Information

Bankruptcies: None
Judgments: None
Liens: None
Suits: None

Negative Payment Experiences: None
Payments Placed for Collection: None

Find out more about this company! [Click here](#) to purchase a Comprehensive Report

This report is prepared and provided under contract for the exclusive use of Keith Cangarella, DreamWeaver Studios.
This report may not be reproduced in whole or in part by any means of reproduction.

Exb
Exhibit B

Co. Clerk Form No.

FILE NO.

99-1052

STANISLAUS COUNTY CLERK

FICTITIOUS BUSINESS NAME STATEMENT

99 MAY 20 PH 3: 07

P.O. Box 1670
1021 "I" Street, Suite 101 KAREN MATHEWS, COUNTY CLERK
Modesto, CA 95353
(209) 525-5250

BY [Signature]
DEPUTY

NOTICE-THIS FICTITIOUS BUSINESS NAME STATEMENT EXPIRES FIVE YEARS FROM THE DATE IT WAS FILED. A NEW STATEMENT MUST BE FILED PRIOR TO THAT EXPIRATION DATE. THE FILING OF THIS STATEMENT DOES NOT OF ITSELF AUTHORIZE THE USE IN THIS STATE OF A FICTITIOUS BUSINESS NAME IN VIOLATION OF THE RIGHTS OF ANOTHER UNDER FEDERAL, STATE, OR COMMON LAW (SEE SECTION 14400 ET SEQ., BUSINESS AND PROFESSIONS CODE).

FILING FEE

\$27.00 FOR FIRST BUSINESS NAME ON STATEMENT
\$ 7.00 FOR EACH ADDITIONAL BUSINESS NAME FILED ON SAME STATEMENT AND DOING BUSINESS AT THE SAME LOCATION
\$ 7.00 FOR EACH ADDITIONAL OWNER IN EXCESS OF TWO OWNERS.

IF YOU ARE FILING YOUR STATEMENT BY MAIL, PLEASE INCLUDE A SELF-ADDRESSED, STAMPED ENVELOPE FOR RETURN OF YOUR RECORDS.

This statement was filed with the County Clerk on date indicated by file stamp above.

The following person (persons) is (are) doing business as:

Message in a Bottle
(FICTITIOUS BUSINESS NAME)

725 Paradise Rd
(STREET ADDRESS-DO NOT USE P.O. BOX)

Modesto CA 95351
(CITY) (STATE) (ZIP)

1. Roger Rojas
(FULL NAME-TYPE/PRINT)
725 Paradise Rd
(RESIDENTIAL ADDRESS) (Do Not Use P.O. Box)
Modesto CA 95351
(CITY) (STATE) (ZIP)

2. _____
(FULL NAME-TYPE/PRINT)

(RESIDENTIAL ADDRESS)

(CITY) (STATE) (ZIP)

3. _____
(FULL NAME-TYPE/PRINT)

(RESIDENTIAL ADDRESS)

(CITY) (STATE) (ZIP)

4. _____
(FULL NAME-TYPE/PRINT)

(RESIDENTIAL ADDRESS)

(CITY) (STATE) (ZIP)

This business is conducted by: ☒ an individual ☐ Individuals--Husband and Wife ☐ a General Partnership ☐ a Limited Liability Co
☐ a Limited Partnership ☐ a Corporation ☐ a Business Trust ☐ Co-Partners ☐ a Joint Venture
☐ an Unincorporated Association--other than a Partnership ☐ Other (Specify) _____
(if corporation, show state of incorporation)

The registrant commenced to transact business under the fictitious business name or names listed above on 1/16/99

The type of business being conducted Message Services

If registrant is not a corporation sign below:

Signed Roger Rojas
Typed or Printed Roger Rojas
Business Phone: 521-3653

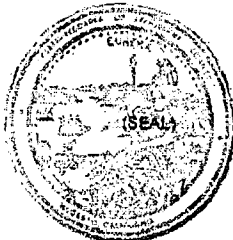
If Registrant is a corporation or limited liability company, sign below:

Corporation or
Company Name _____
Signature of Officer _____
Type or Print
Officer's Name & Title _____

RETURN ALL COPIES TO THE COUNTY CLERK

CERTIFICATION

I hereby certify that the foregoing is a correct copy of the original on file in my office.



KAREN MATHEWS, COUNTY CLERK

By [Signature]


Co. Clerk Form No.

FILE NO.

99-0194

STANISLAUS COUNTY CLERK FICTITIOUS BUSINESS NAME STATEMENT

P.O. Box 1670
1021 "I" Street, Suite 101
Modesto, CA 95353
(209) 525-5250

99 JAN 27 PM 1:34
KAREN MATHEWS, COUNTY CLERK
BY 

2700
NOTICE-THIS FICTITIOUS BUSINESS NAME STATEMENT EXPIRES FIVE YEARS FROM THE DATE IT WAS FILED. A NEW STATEMENT MUST BE FILED PRIOR TO THAT EXPIRATION DATE. THE FILING OF THIS STATEMENT DOES NOT OF ITSELF AUTHORIZE THE USE IN THIS STATE OF A FICTITIOUS BUSINESS NAME IN VIOLATION OF THE RIGHTS OF ANOTHER UNDER FEDERAL, STATE, OR COMMON LAW (SEE SECTION 14400 ET SEQ., BUSINESS AND PROFESSIONS CODE).

FILING FEE
\$27.00 FOR FIRST BUSINESS NAME ON STATEMENT
\$ 7.00 FOR EACH ADDITIONAL BUSINESS NAME FILED ON SAME STATEMENT AND DOING BUSINESS AT THE SAME LOCATION
\$-7.00 FOR EACH ADDITIONAL OWNER IN EXCESS OF TWO OWNERS.

IF YOU ARE FILING YOUR STATEMENT BY MAIL, PLEASE INCLUDE A SELF-ADDRESSED, STAMPED ENVELOPE FOR RETURN OF YOUR RECORDS.

This statement was filed with the County Clerk on date indicated by file stamp above.

The following person (persons) is (are) doing business as: Message in a Bottle

725 Paradise Rd Modesto CA 95351
(STREET ADDRESS (DO NOT USE P.O. BOX)) (CITY) (STATE) (ZIP)

1. Roger Rojas
(FULL NAME-TYPE/PRINT)

725 Paradise Rd
(RESIDENTIAL ADDRESS) (Do Not Use P.O. Box)
Modesto CA 95351
(CITY) (STATE) (ZIP)

2. Adriana Rojas
(FULL NAME-TYPE/PRINT)

725 Paradise Rd
(RESIDENTIAL ADDRESS)
Modesto CA 95351
(CITY) (STATE) (ZIP)

3. _____
(FULL NAME-TYPE/PRINT)

(RESIDENTIAL ADDRESS)

(CITY)

(STATE)

(ZIP)

4. _____
(FULL NAME-TYPE/PRINT)

(RESIDENTIAL ADDRESS)

(CITY)

(STATE)

(ZIP)

This business is conducted by: ☐ an individual ☒ Individuals—Husband and Wife ☐ a General Partnership ☐ a Limited Liability Co
☐ a Limited Partnership ☐ a Corporation ☐ a Business Trust ☐ Co-Partners ☐ a Joint Venture
☐ an Unincorporated Association—other than a Partnership ☐ Other (Specify) _____
(if corporation, show state of incorporation)

The registrant commenced to transact business under the fictitious business name or names listed above on 1/16/99

The type of business being conducted message service

If registrant is not a corporation sign below:

Signed Roger Rojas Adriana Rojas

Typed or Printed Roger Rojas Adriana Rojas

Business Phone: 521-3653 521-3653

If Registrant is a corporation or limited liability company, sign below:

Corporation or

Company Name _____

Signature of Officer _____

Type or Print
Officer's Name & Title _____

RETURN ALL COPIES TO THE COUNTY CLERK

CERTIFICATION

I hereby certify that the foregoing is a correct copy of the original on file in my office.



KAREN MATHEWS, COUNTY CLERK

By 



STANISLAUS COUNTY CLERK
FICTITIOUS BUSINESS NAME STATEMENT
FILED

FILE NO. 03-268

P. O. BOX 1670
1021 "I" Street, Suite 101
Modesto, CA 95353
(209) 525-5250

03 OCT 23 AM 10:14

STANISLAUS CO. CLERK-RECORDER

NOTICE-THIS FICTITIOUS BUSINESS NAME STATEMENT EXPIRES FIVE YEARS FROM THE DATE IT WAS FILED. A NEW STATEMENT MUST BE FILED PRIOR TO THAT EXPIRATION DATE. THE FILING OF THIS STATEMENT DOES NOT OF ITSELF AUTHORIZE THE USE IN THIS STATE OF A FICTITIOUS BUSINESS NAME IN VIOLATION OF THE RIGHTS OF ANOTHER UNDER FEDERAL, STATE OR COMMON LAW (SEE SECTION 14400 ET SEQ., BUSINESS AND PROFESSIONS CODE).

FILING FEE
\$30.00 FOR FIRST BUSINESS NAME ON STATEMENT
\$7.00 FOR EACH ADDITIONAL BUSINESS NAME FILED ON SAME STATEMENT AND DOING BUSINESS AT THE SAME LOCATION.
\$7.00 FOR EACH ADDITIONAL OWNER IN EXCESS OF TWO OWNERS.

BY Cheryl Westbrook
DEPUTY

IF YOU ARE FILING YOUR STATEMENT BY MAIL, PLEASE INCLUDE A SELF-ADDRESSED, STAMPED ENVELOPE FOR RETURN OF YOUR RECORDS.

This statement was filed with the County Clerk on date indicated by file stamp above.

The following person (persons) is (are) doing business as:

Message in a Bottle
(FICTITIOUS BUSINESS NAME)
725 Paradise Rd
(STREET ADDRESS-(DO NOT USE P.O. BOX))
Modesto
(CITY)
CA
(STATE)
95351
(ZIP)

1. Gold Shells, Inc.
(FULL NAME-TYPE/PRINT)
725 Paradise Rd
(RESIDENTIAL ADDRESS) (Do not use P.O. Box)
Modesto CA 95351
(CITY) (STATE) (ZIP)

2. _____
(FULL NAME-TYPE/PRINT)

(RESIDENTIAL ADDRESS) (Do not use P.O. Box)

(CITY) (STATE) (ZIP)

3. _____
(FULL NAME-TYPE/PRINT)

(RESIDENTIAL ADDRESS) (Do not use P.O. Box)

(CITY) (STATE) (ZIP)

4. _____
(FULL NAME-TYPE/PRINT)

(RESIDENTIAL ADDRESS) (Do not use P.O. Box)

(CITY) (STATE) (ZIP)

This business is conducted by: ☐ an Individual ☐ Individuals-Husband and Wife ☐ a General Partnership ☐ a Limited Liability Co
☐ a Limited Partnership ☒ a Corporation ☐ a Business Trust ☐ Co-Partners ☐ a Joint Venture
☐ an Unincorporated Association-other than a Partnership ☐ Other (Specify) California Corporation
(if corporation, show state of incorporation)

The registrant commenced to transact business under the fictitious business name or names listed above on 8/1/03
(Date)

The type of business being conducted retail + wholesale sales

I declare that all information in this statement is true and correct. (A registrant who declares as true information, which he or she knows to be false, is guilty of a crime.)

If Registrant is not a corporation sign below:

Signed _____
Typed or Printed _____
Business Phone: _____

If Registrant is a corporation or limited liability company, sign below:

Corporation or Gold Shells, Inc.
Company Name
Signature of Officer Roger Rojas
Officer's Name & Title Roger Rojas, CEO Gold Shells, Inc.

RETURN ALL COPIES TO THE COUNTY CLERK

CERTIFICATION

I hereby certify that the foregoing is a correct copy of the original on file in my office.

(SEAL)

STANISLAUS CO. CLERK-RECORDER

By [Signature]



State of California

S

04-490188

Kevin Shelley
Secretary of State



STATEMENT OF INFORMATION (Domestic Stock Corporation)

FEES (Filing and Disclosure): \$25.00. If amendment, see instructions.

IMPORTANT — READ INSTRUCTIONS BEFORE COMPLETING THIS FORM

1. CORPORATE NAME (Please do not alter if name is preprinted.)

C2545928 NOTICE 09/17/04 15669S NPT
GOLD SHELLS, INC.
PO BOX 581113
MODESTO CA 95358

FILED
In the office of the Secretary of State
of the State of California

OCT 27 2004

Kevin Shelley
KEVIN SHELLEY, SECRETARY OF STATE

This Space For Filing Use Only

CALIFORNIA CORPORATE DISCLOSURE ACT (Corporations Code section 1502)

2. ☐ Check here if the corporation is publicly traded. If publicly traded, complete this form and the Corporate Disclosure Statement (Form SI-PTSUPP). See Item 2 of instructions.

NO CHANGE STATEMENT

3. ☐ If there has been no change in any of the information contained in the last Statement of Information filed with the Secretary of State, including any information contained in Form SI-PTSUPP, if applicable, check the box and proceed to Item 16.
If there have been any changes to the information contained in either form, or no Statement of Information has been previously filed, this form (and Form SI-PTSUPP, if publicly traded) must be completed in its entirety.

COMPLETE ADDRESSES FOR THE FOLLOWING (Do not abbreviate the name of the city. Items 4 and 5 cannot be P.O. Boxes.)

4. STREET ADDRESS OF PRINCIPAL EXECUTIVE OFFICE	CITY AND STATE	ZIP CODE
3401 Shawnee #61	Modesto, CA	95356
5. STREET ADDRESS OF PRINCIPAL BUSINESS OFFICE IN CALIFORNIA, IF ANY	CITY	STATE
3401 Shawnee #61	Modesto, CA	CA 95356

NAMES AND COMPLETE ADDRESSES OF THE FOLLOWING OFFICERS (The corporation must have these three officers. A comparable title for the specific officer may be added; however, the preprinted titles on this form must not be altered.)

6. CHIEF EXECUTIVE OFFICER/	ADDRESS	CITY AND STATE	ZIP CODE
Roger Rojas	3401 Shawnee #61	Modesto, CA	95356
7. SECRETARY/	ADDRESS	CITY AND STATE	ZIP CODE
Adriana Rojas	3401 Shawnee #61	Modesto, CA	95356
8. CHIEF FINANCIAL OFFICER/	ADDRESS	CITY AND STATE	ZIP CODE
Adriana Rojas	3401 Shawnee #61	Modesto, CA	95356

NAMES AND COMPLETE ADDRESSES OF ALL DIRECTORS, INCLUDING DIRECTORS WHO ARE ALSO OFFICERS (The corporation must have at least one director. Attach additional pages, if necessary.)

9. NAME	ADDRESS	CITY AND STATE	ZIP CODE
Roger Rojas	3401 Shawnee #61	Modesto, CA	95356
10. NAME	ADDRESS	CITY AND STATE	ZIP CODE
Adriana Rojas	3401 Shawnee #61	Modesto, CA	95356
11. NAME	ADDRESS	CITY AND STATE	ZIP CODE

12. NUMBER OF VACANCIES ON THE BOARD OF DIRECTORS, IF ANY:

AGENT FOR SERVICE OF PROCESS (If the agent is an individual, the agent must reside in California and Item 14 must be completed with a California address. If the agent is another corporation, the agent must have on file with the California Secretary of State a certificate pursuant to Corporations Code section 1505 and Item 14 must be left blank.)

13. NAME OF AGENT FOR SERVICE OF PROCESS

14. ADDRESS OF AGENT FOR SERVICE OF PROCESS IN CALIFORNIA, IF AN INDIVIDUAL
P.O. Box 581113 Modesto CA 95358

TYPE OF BUSINESS

15. DESCRIBE THE TYPE OF BUSINESS OF THE CORPORATION
Wholesale and Retail sales

16. BY SUBMITTING THIS STATEMENT OF INFORMATION TO THE SECRETARY OF STATE, THE CORPORATION CERTIFIES THE INFORMATION CONTAINED HEREIN, INCLUDING ANY ATTACHMENTS, IS TRUE AND CORRECT

Roger Rojas *Roger Rojas* CEO 10/25/04
TYPE OR PRINT NAME OF PERSON COMPLETING THE FORM SIGNATURE TITLE DATE

**CITY OF MODESTO
BUSINESS LICENSE**

NO. 0060786

THIS LICENSE IS EVIDENCE THAT THE FEES REQUIRED UNDER
TITLE VI OF THE MUNICIPAL CODE HAVE BEEN PAID TO THE
CITY OF MODESTO FOR THE CONDUCT AND OPERATION OF
THE BUSINESS, AT THE PREMISES, AND BY THE PERSON OR
FIRM INDICATED BELOW.

- THIS LICENSE MUST BE POSTED
- VOID IF ANY UNAUTHORIZED
- CHANGES MADE.
- NOT TRANSFERABLE.



CITY OF MODESTO

DIRECTOR OF FINANCE

For Period Ending
06/30/1999

THIS LICENSE SHALL NOT ENTITLE LICENSEE TO OPERATE THIS BUSINESS WITHOUT COMPLYING WITH ALL REQUIREMENTS OF THE MODESTO MUNICIPAL CODE AND ALL OTHER
APPLICABLE LAWS. IT HAS BEEN ISSUED WITHOUT VERIFICATION THAT THE LICENSEE IS SUBJECT TO OR EXEMPT FROM LICENSING BY THE STATE OF CALIFORNIA.

MESSAGE IN A BOTTLE
P O BOX 581113
Modesto, CA 95358

L O C A T I O N

ROJAS, ADRIANA; ROJAS, ROGER
00725 PARADISE RD
COMPUTER RELATED SVCS NOT ELSEWHE

BUSINESS LICENSE

COUNTY OF STANISLAUS-STATE OF CALIFORNIA

DATE ISSUED

TYPE OF BUSINESS

LICENSE NUMBER

03-31-04

INTERNET BASED SALES

783214

THE PERSON, FIRM OR CORPORATION

HEREIN NAMED IS HEREBY ISSUED THIS

LICENSE TO CONDUCT BUSINESS IN

ACCORDANCE WITH COUNTY ORDINANCE.

THIS LICENSE IS SUBJECT TO INVESTIGATION. MODESTO, CA 95356

ROGER & ADNANA ROJAS

4600 B GLASS CRT

EXPIRATION DATE

12-31-06

ISSUED TO:

MESSAGE IN A BOTTLE

PO BOX 581113

MODESTO, CA 95358

TOM WATSON
TAX AND LICENSE COLLECTOR

AMOUNT PAID

\$50.00

POST IN A CONSPICUOUS PLACE

3

Exhibit C

PACIFIC CENTER
1012 11TH STREET,
SUITE 103
MODESTO, CA 95354

209-550-5690
FAX: 209-550-5691
WWW.JCANNONLAW.COM

Sent Via Facsimile (626) 685-5601
and U.S. Mail

January 27, 2004

Overture Services, Inc.
ATTN: Business and Legal Affairs - Trademarks
74 N. Pasadena Avenue, 3d Floor
Pasadena, CA 91103

Re: Mark: Message In a Bottle
Registration No.: 2,243,269

To Whom It May Concern:

This firm represents Mr. Roger Rojas. Mr. Rojas is the owner of the "Message in A Bottle" service mark registered with the U.S. Patent and Trademark Office (Registration No. 2,243,269). In addition, Mr. Rojas has pending with the PTO an application for registration of the "Message in a Bottle" trademark (Serial No. 76/556304). Mr. Rojas has used the "Message in a Bottle" mark in commerce continuously since at least as early as January 16, 1999.

It has come to our attention that Overture is permitting bidding activity on several "Message in a Bottle" websites; specifically, www.timelessmessage.com, www.personalcreations.com and www.bottlemeamessage.com, respectively. In each instance, goods and/or services identical to or confusingly similar with my client's goods and services are being marketed and sold using the "Message in a Bottle" mark. In addition, my client has expressed a strong interest in posting his "Message in a Bottle" marks with Overture to enhance the marketing and sale of the goods and services associated therewith.

Of particular concern is the peculiar position my client finds himself in with respect to protecting his marks while benefitting from the Overture business model. If Mr. Rojas seeks to post his marks on the Overture list for bidding, he will find himself bidding for a name to which he already appears to have the exclusive rights. This position is based in part on the fact that the five-year period of incontestability has already passed. As such, he may be unnecessarily and illegally be forced to incur substantial costs for competitively bidding an artificially high price for his own marks on the Overture system. If he elects to participate in the Overture bidding process without demanding the removal of the infringing uses of the marks, he may later be

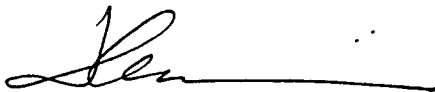
deemed to have acquiesced to their use by the third parties, thereby forfeiting his right to enforce his rights and interests in the marks against third parties seeking to use the "Message in a Bottle" marks.

Given these facts, it appears that Overture's policies require that the infringing uses of the third parties hereinbefore mentioned be removed from the Overture bidding process. We are in the process of contacting the infringing users mentioned above; however, the interim damage to my client as the result of the ongoing listing of the marks by Overture constitute real and immediate damage to my client's marketing and sales efforts.

Because of the existing and pending registrations of the marks, neither of the exceptions listed in Overture's trademark policies applies in this case. The aforementioned websites do not properly attribute or distinguish my client's marks and related goods and services to those on the relevant websites; further, the registration and use of the marks clearly has overcome any colorable claim that the marks are generic or clearly descriptive. Given the registrations and elapsed time of the use of the marks, a presumption of secondary meaning is also established.

Please feel free to contact me should you have any questions. In the interim, Overture should cease and desist from continuing the bidding process on these marks until such time as the matter has been resolved.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey C. Cannon", with a long horizontal flourish extending to the right.

Jeffrey C. Cannon

cc: Roger Rojas

MEMBER OF CALIFORNIA
& OREGON STATE BARS

PETER H. SMITH
ATTORNEY AT LAW
1535 J STREET, SUITE A
POST OFFICE BOX 1867
MODESTO, CALIFORNIA 95353

TELEPHONE (209) 579-9524
FACSIMILE (209) 579-9940

May 31, 2005

VIA FAX TO (312) 321-4299

Howard S. Michael, Esq.
Brinks, Hofer, Gilson & Lione
NBC Tower - Suite 3600
455 N. Cityfront Plaza Drive
Chicago, IL 60611-5599

Re: Trademark/Service Mark Infringement Issue – MESSAGE IN A BOTTLE

Dear Mr. Michael:

I am writing to you as counsel for Overture Services, Inc., having previously contacted you in that capacity regarding infringements of the registered service mark MESSAGE IN A BOTTLE, which is owned by my client, Gold Shells, Inc. My client's initial contact to you was by letter from its prior counsel, Jeffrey Cannon, dated January 27, 2004, and you sent a brief response to Mr. Cannon dated February 6, 2004. Thereafter, Mr. Cannon received a positive substantive response from Debra Carrete of the Trademark Department at Overture Services, Inc., dated April 1, 2004.

I subsequently alerted you by telephone to on-going problems with infringements of MESSAGE IN A BOTTLE on December 14, 2004, and February 8, 2005.

It has now come to my client's attention that a repeat infringer, Keith Cangiarella at bottlemeamessage.com, has started bidding on the key word "Message in a Bottle", which is identical to my client's registered mark. Please recall that my client's service mark registration no. 2,243,269 was issued on May 4, 1999, and has a priority date of January 6, 1997. A continuing use affidavit has been filed and accepted by the U.S. Patent & Trademark Office, and the registration is now incontestable.

After my client's concerns were originally communicated to Overture, Overture properly removed Mr. Cangiarella and some other infringers over a year ago, and they have not since returned except for Cangiarella. Since his website continues to contain infringing material, I am not sure how his site has again appeared, and I ask that it again be removed.

Howard S. Michael, Esq.

May 31, 2005

Page 2

My client has also learned that, because of a technical issue cited by Overture Customer Service, infringers are occasionally popping up on the Yahoo Sponsored Search under the "Sponsored Results" area on the right side of the page. This is a mistake because these companies are not bidding for the term; they are simply appearing without paying, apparently because of this "technical issue". Overture Customer Service advised that this could be easily corrected by manually removing these results, and I ask that this be done.

Upon further investigation, my client has determined that many of the previous infringers who were removed from Yahoo Sponsored Search have now migrated to many of the new Yahoo products that have become available. These companies are all repeat infringers and have violated the Yahoo Trademark Policy, the Yahoo Terms of Service, the Yahoo Content Guidelines, and the Yahoo Merchant Guidelines, as well as federal trademark law.

The following is a list of infringing websites which have appeared on the various Yahoo products:

(1) **Yahoo Sponsored Search:** bottlemeamessage.com, timelessmessage.com, authenticmessages.com, and personalcreations.com. (All have been previously removed, but are occasionally popping up due to the "technical issue" noted above).

(2) **Yahoo Product Submit:**

timelessmessage.com	bottlemeamessage.com
epersonlized-gifts.com/pickNpersonalize.com	
walmart.com	allbirthdaygifts.com
shop.store.yahoo.com/myweddingfavors/index.html	
personalizedbirthdaygifts.com	dogwoodsquare.com
momentsofelegance.com	yourweddingpartyfavors.com
weddingfavorsetc.com	paradiseisntlost.com
giftlet.com	babyshowerspecialists.com
textstyledesigns.com	capeimages.com
mypersonalartist.com	granny1.com
giftideasformom.com	tradewindproducts.com
writingpapers.com	weddinggifts.net
babygifts1.com	giftsfourgolfers.com
wtv-zone.com	weddinggifts1.com

Howard S. Michael, Esq.
May 31, 2005
Page 3

nopassportrequired.com
hqweddingfavors.com
washnweartoo.com
shop.store.yahoo.com/theobsessionboxco/trgiset.html
easterncorner.com
foreverwedstore.com
name-origins.com
romanticgiftstudio.com
bocaresort.com
cassandra-greatest.com
giftideasfordad.com
shoppingbrains.com
jilcompanies.com
tradingstories.com
yourpartyweddingfavors.com
sandartsupplies.com


fraternity-sorority.com
thinkingofyoutwo.com
allmothersdaygifts.com
wherebridgesgo.com
cottongin.com
weddingsbydesign.com
lighthousewarehouse.com
moodweddings.com
kidboxes.com
sale4all.com
presentpicker.com
islandweddingshop.com
myweddingfavors.com
crownstationers.com

(3) **Directory Submit:** bottlemeamessage.com, timelessmessage.com, and marketinginabottle.com.

(4) **Search Submit:** thegreetingstore.com, authenticmessages.com, timelessmessage.com, and marketinginabottle.com,

Please take the action requested above and also take whatever other action may be required to remove these infringers' infringing materials from all Yahoo products, including Yahoo Store. I will appreciate your confirming your action on this subject by return communication to me by June 17, 2005.

Very truly yours,



Peter H. Smith

PHS/lmb

cc: Mr. Roger Rojas, Gold Shells, Inc.

PETER H. SMITH

ATTORNEY AT LAW

1535 J STREET, SUITE A

POST OFFICE BOX 1867

MODESTO, CALIFORNIA 95353

MEMBER OF CALIFORNIA
& OREGON STATE BARS

TELEPHONE (209) 579-9524
FACSIMILE (209) 579-9940

August 30, 2005

Copyright Agent
Yahoo!, Inc.
701 First Avenue
Sunnyvale, CA 94089

Re: Trademark Infringement in Yahoo's Natural Results Area
Your Case No. KMM76522687V25904L0KM

Ladies/Gentlemen:

I am the attorney for Gold Shells, Inc., the owner (by assignment from Roger Rojas, the original registrant) of U.S. service mark registration number 2,243,269 for MESSAGE IN A BOTTLE for receiving communications from others, recording such communications in written or printed form, and transmitting such communications to others. I am enclosing copies of my client's registration and proof of its ownership thereof by assignment. My client's mark is constantly being infringed by various persons and companies on the Internet. I previously alerted one of Yahoo's attorneys and action was taken to eliminate the infringers from Yahoo products. However, the infringers are still appearing in Yahoo's natural results area.

The URL's for the repeat infringers which have been removed from other Yahoo products and are now appearing only on the natural results area are as follows:

bottlemeamessage.com *
authenticmessages.com
timelessmessage.com
thegreetingstore.com
amessagebottle.com *
letterinabottle.com *
personalcreations.com
marketinginabottle.com *

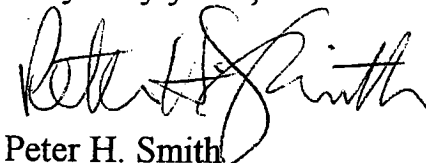
Yahoo!, Inc.
August 30, 2005
Page 2

I am enclosing copies of the home pages for each of the infringers which has a printable home page. None of these uses has been authorized by Roger Rojas or Gold Shells, Inc., and it is my position that these uses all constitute infringement.

The above information has been furnished to me by my client as accurate, and I am authorized to act on its behalf in regard to this infringement issue.

Please let me know what action can be taken by Yahoo to eliminate these infringers from Yahoo's natural results area.

Very truly yours,

A handwritten signature in black ink, appearing to read "Peter H. Smith", written over a horizontal line.

Peter H. Smith

PHS/lmb
Enclosures

cc: Mr. Roger Rojas, CEO, Gold Shells, Inc.



Message in a Bottle®

www.MessageInABottle.com

Exhibit D

"the art of expression"TM
Serving Our Online Customers
Since 1997

MessageInABottle.com is the Official Site of Message in a Bottle®

- Home
- All Message in a Bottle®
- Specials
- Love
- Anniversary
- Friendship
- Birthday
- Special Occasion
- Traditional
- For Dad
- For Mom
- Baby
- Zodiac
- Nautical
- Celestial
- Romantic
- Flowers
- Valentine's Day
- Accessories
- Message Sample
- Shipping
- About
- Guarantee
- Contact



*Make a lasting impression on someone today!
Send them a genuine Message in a Bottle®*

What is a Message in a Bottle®?
In simplest terms a Message in a Bottle® is the combination of your personalized sentiment which is printed, rolled and placed inside one of our beautiful bottles. A variety of presentation gift boxes, one of which is free, can then be added. We then send your gift to the recipient of your choice.



American Red Cross

Victims of Hurricane Katrina need your help now...



We are proud to offer you the largest selection of quality gift bottles in the gift bottle industry with a 100% money

Occasions

- Love

[Privacy](#)[FAQs](#)[Feedback](#)[Bulletin](#)

back guarantee. We are proud to offer you a huge selection of pre-written messages and a **free gift box** with every order. You'll be proud you gave your loved one the **original Message in a Bottle®** and not a mere imitation by another name. Remember to insist on the genuine Message in a Bottle® because anything less simply won't do. It's easy.

"It is beautiful! you guys did a wonderful job, thank you. I've been telling everyone about you. I am very pleased to give this to my daughter!" - Joy H.

- [Anniversary Gift](#)
- [Birthday](#)
- [Traditional](#)
- [Friendship](#)
- [Special Occasion](#)
- [Celestial](#)
- [Flowers](#)
- [For Mom](#)
- [Romantic](#)
- [For Dad](#)
- [Zodiac Gift](#)
- [Baby](#)
- [Nautical](#)
- [Valentine's Day](#)
- [Christmas](#)

Message in a Bottle®
offers a Free
Gold Gift Box
or Upgrade to a
Sweetheart Red
Box \$3.99
Wood Presentation
Box \$16.99

"I will have to say this is one of the most creative things I have ever done. Thanks to a message in a bottle I sent to my boyfriend, we have become even closer. I just want to say thank you very much..." -Judy A.



Hand-Crafted in the USA

Imagine...

- the surprise they'll feel as they open the gift box and a beautiful bottle is revealed.
- the wonder they'll experience as they discover the message inside. Who could it be from?
- the anticipation that grips them as they remove the message.
- the joy they'll feel when they realize it's from you. The look in their eyes says it all!

Now just imagine how great it will feel knowing you made someone so very happy.

"just want to thank you .. you guys have by far the best customer service .. i have never dealt with a company as thorough as yours in their customer service dept. i will definitely be ordering from you guys again .. keep up the excellent work" -Mike M.

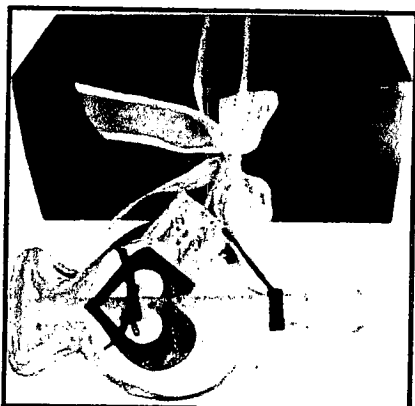
We are excited to bring you a personalized gift in a class of its own. Our beautiful glass bottles are simply the perfect complement to your message, love poem, love letter or if you prefer, select one of our wonderful pre-written messages. Either way, it makes for a great gift idea as a Valentine's Day gift, Mother's Day gift, Wedding gift, Anniversary Gift, or as a unique gift for any Special Occasion.

Say I Love You in a Message in a Bottle ®

"It is beautiful! you guys did a wonderful job, thank you. I've been telling everyone about you. I am very pleased to give this to my daughter!" - Joy H.

Message in a Bottle ® Desire

**Designed and Hand-crafted here in our Studios
Only \$39.99 Red Gift Box Included**



[Home](#) | [All Message in a Bottle ®](#) | [Specials](#) | [Love](#) | [Anniversary](#) | [Friendship](#) |
[Birthday](#) | [Special Occasion](#) | [Traditional](#) | [For Dad](#) | [For Mom](#) | [Baby](#) | [Zodiac](#) |
[Nautical](#) | [Celestial](#) | [Romantic](#) | [Flowers](#) | [Valentine's Day](#) | [Accessories](#) | [Message](#)
[Sample](#) | [Shipping](#) | [About](#) | [Guarantee](#) | [Contact](#) | [Privacy](#) | [FAQ'S](#) | [Feedback](#) |
[Bulletin](#) |

www.MessageInABottle.com Official Site of Message In A Bottle®



Look for our signature "Gold Shells from Carmel" logo to ensure it's a real Message in a Bottle®.

Message in a Bottle® P. O. Box 1625 Carmel by the Sea, CA 93921 Email: sales@messageinabottle.com

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Message in a Bottle®

www.MessageInABottle.com

"the art of expression"
Serving Over 40 Years
Since 1997

All Message in a Bottle® Categories

More than kisses, letters mingle souls. -John Donne

Scroll down to view all our categories

- Home
- All Message in a Bottle®
- Specials
 - Love
- Anniversary
 - Friendship
 - Birthday
- Special Occasion
 - Traditional
 - For Dad
 - For Mom
 - Baby
 - Zodiac
 - Nautical
 - Celestial
 - Romantic
 - Flowers
- Valentine's Day
- Accessories
- Message Sample
- Shipping
- About
- Guarantee
- Contact



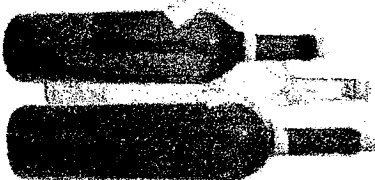
Love
\$25.99- \$39.99



Anniversary Gift
\$25.99



Birthday
\$25.99



Traditional
\$25.99- \$29.99

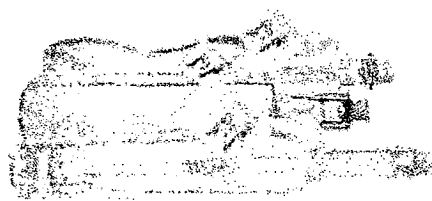
[Privacy](#)
[FAQs](#)
[Feedback](#)
[Bulletin](#)



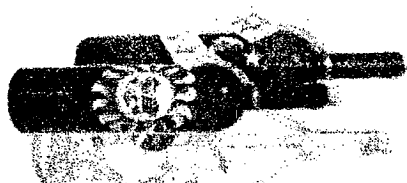
Message in a Bottle®
offers a Free
Gold Gift Box
or Upgrade to a
Sweetheart Red
Box \$3.99
Wood Presentation
Box \$16.99



Friendship
\$25.99



Special Occasion
\$19.99- \$29.99



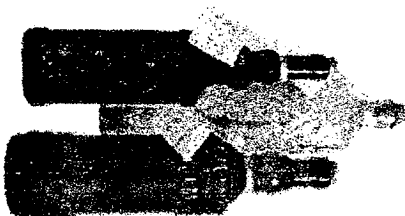
Celestial
\$25.99



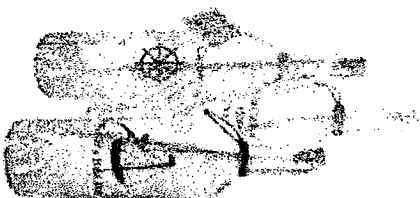
Flowers
\$29.99



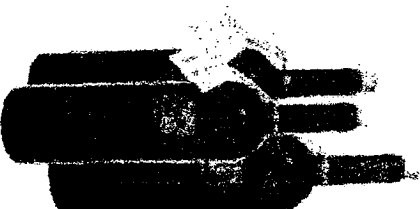
For Mom
\$29.99



Romantic
\$39.99



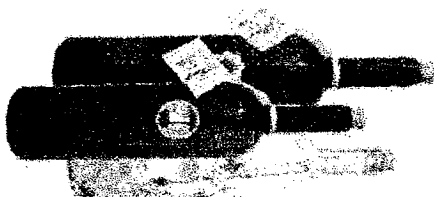
For Dad
\$29.99



Zodiac Gift
\$25.99



Baby
\$25.99



Nautical
\$25.99



Valentine's Day
\$29.99-\$39.99



Christmas
\$27.99

"Wow! What a great idea!! I am so glad I came across this idea and your website. The whole transaction went perfectly and smoothly. With only a few days before Valentines Day, she still received the gift on time. When she opened it up, she loved it so much she cried, honestly. Of all the gifts I bought her over the years, this is the only gift that overwhelmed her to shed tears of joy. I finally became a romantic man again, Thanx again :)" -Kevin H.

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Bulletin |

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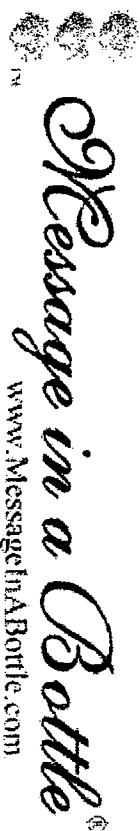


Look for our signature "Gold Shells from Carmel" logo to ensure it's a real Message in a Bottle®.

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sales@messageinabottle.com

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Serving Our Online Customers
Since 1997

Message in a Bottle® Specials

Home
All Message in a Bottle®
Specials

What comes from the heart goes to the heart. -Samuel Taylor Coleridge

Love

Anniversary
Friendship
Birthday
Special Occasion

Traditional

For Dad

For Mom

Baby

Zodiac

Nautical

Celestial

Romantic

Flowers

Valentine's Day

Accessories

Message Sample

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Lavender

Reg. Price: ~~\$25.99~~

Sale Price: \$23.99

Save: \$2.00

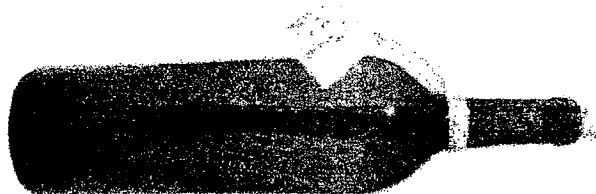
SPECIAL OFFER



Shaped

Glass Bottle

10.5 inches tall



Bamboo

Reg. Price: ~~\$25.99~~

Sale Price: \$23.99

Save: \$2.00

SPECIAL OFFER



Glass Bottle

12 inches tall

Admire

Reg. Price: ~~\$29.99~~

Sale Price: \$25.99

"I ordered a message in a bottle from your site, and was very pleased with the outcome of it! Loved it, great shipping,

[Privacy](#)
[FAQs](#)
[Feedback](#)
[Bulletin](#)



Save: \$4.00

SPECIAL OFFER

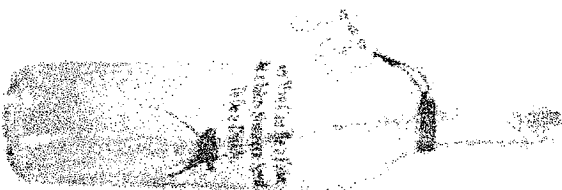
Shaped
 Glass Bottle
 12.5 inches tall



arrived quickly .. Keep up the good work! It was also very beautiful!" - Brianna D.

Hero

Reg. Price: ~~\$22.99~~
Sale Price: \$25.99
Save: \$4.00



Handcrafted
 Glass Bottle
 12 inches tall

Text: Any Man Can Be a Father, But it Takes Someone Special To Be a Daddy.

Message in a Bottle®

offers a Free
 Gold Gift Box
 or Upgrade to a
 Sweetheart Red
 Box \$3.99
 Wood Presentation
 Box \$16.99

Moonlight

Reg. Price: ~~\$22.99~~
Sale Price: \$19.99
Save: \$4.00

SPECIAL OFFER

Shaped
 Glass Bottle
 10.5 inches tall



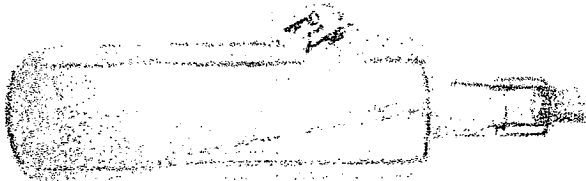
Treasure

Reg. Price: ~~\$22.99~~
Sale Price: \$19.99
Save: \$4.00

SPECIAL OFFER

Shaped
 Glass Bottle
 11.25 inches tall





VIEW OTHER BOTTLES

**To order a Message in a Bottle®
Simply select a bottle, choose a message or write your own and then tell us to
whom you want it sent. We'll do the rest.**

[Home](#) | [All Message in a Bottle®](#) | [Specials](#) | [Love](#) | [Anniversary](#) | [Friendship](#) |
[Birthday](#) | [Special Occasion](#) | [Traditional](#) | [For Dad](#) | [For Mom](#) | [Baby](#) | [Zodiac](#) |
[Nautical](#) | [Celestial](#) | [Romantic](#) | [Flowers](#) | [Valentine's Day](#) | [Accessories](#) | [Message](#)
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Message in a Bottle® Sample

We here at Message in a Bottle® go through great lengths to ensure that your finished message looks great. All of our messages are printed on the best *acid-free archival quality translucent parchment paper* available to ensure that your message stands the test of time.

We format each and every message by centering it on the page, printing it is an elegant cursive script and then adjust the spacing of the lines and size of the text so that it fits the page perfectly. An example of the cursive script we use is pictured below.

If you have a particular formatting request such as for a stanza or just want a poem formatted in a certain way, we would be more than happy to take your text via email. Simply email us at customerservice@messageinabottle.com with your formatting request. Please include your Order ID Number.



Message in a Bottle®
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Since 1997

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All Message in a Bottle®
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Message in a Bottle® Accessories

Although our beautiful bottles are meant to be displayed and admired, we have made available three types of presentation gift boxes for the all important big unveiling.

The first is a **complementary Gold Toned Gift Box** that is included with every order.

If however you would like to upgrade your presentation gift box, simply select our optional **Sweetheart Gloss Red Gift Box** priced at \$3.99. This box is perfect for Valentine's Day!

Our other presentation gift box is a **Wood Gift Box** which is priced at \$16.99. This elegant Wood Gift Box wraps around your bottle and is held closed by a leather strap. This box is truly an excellent addition to your bottle and will only add to your heartfelt sentiments.

VIEW BOTTLES



Message in a Bottle®
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Since 1997

Our Products

Message in a Bottle® uses only the best

materials to ensure a finished product that is not only pleasing to the senses but stirs the soul. The pursuit of excellence is one that we do not take lightly. Our passion is to create works that can capture a moment and transform it into a treasured memory for years to come. All of our unique handcrafted bottles are created with a meticulous attention to detail. This method ensures that each bottle will be a complete original and truly a one of a kind. Our artisans work with only the finest bottles and after applying gorgeous designs, they polish each bottle to perfection.



All of our messages are printed on the best acid-free archival quality translucent parchment paper available to ensure that your message stands the test of time. Its composition gives it an ethereal elegance not found in other papers and its translucency accentuates this same quality found in all our bottles.

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Anniversary
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Home

All Message in a Bottle ®

Specials

Love

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Birthday

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Celestial

Romantic

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Guarantee

Contact

Message in a Bottle ® Guarantee

*We are THE original and true Message in a Bottle®
and are certified as such on the Principle Register of the Patent and
Trademark Office.

*We are committed to providing great customer service that includes
an unconditional money back guarantee so that you will always have a
great purchasing experience.

*We are committed to using only the best quality materials in the
manufacture of our products and employing these in an ever varying
assortment of new and exciting bottles.



As you can see we here at Message in a Bottle ® are committed to providing
you with both **superior products and stellar service** that are clearly a cut
above the rest. Acknowledged as the preeminent provisioner of **gift bottles**, we
feel it our duty to provide you with a product that will be prized by your
recipient and will no doubt become a valued heirloom.



Our current line-up is exquisite and indicative of our ever changing offerings. Not content to simply offer plain bottles, we offer a large selection of beautifully hand decorated bottles. Only the best concepts are used and those that make it to production are the select few. Unrivaled in their profession our artisans work hard at infusing each and every bottle with a personal touch.

Although it is said imitation is the sincerest form of flattery, Message in a Bottle .com wants to assure you that we are the only company legally registered to sell and distribute the **Message in a Bottle®** service and product. So go ahead and show off your impeccable taste by sending them a superlative gift, a genuine Message in a Bottle®, and make them the envy of all their friends. Remember to show them you thought enough of them to send them the real thing. Simply look to your browser's address bar and make sure its set to www.MessageInABottle.com, look for the Legally Registered® Mark next to our name and also look for our Trademark "Gold Shells" logo.

VIEW BOTTLES

Message in a
Bottle®
offers a Free
Gold Gift Box
or Upgrade to a
Sweetheart Red
Box \$3.99
Wood Presentation
Box \$16.99

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[Nautical](#) | [Celestial](#) | [Romantic](#) | [Flowers](#) | [Valentine's Day](#) | [Accessories](#) | [Message](#) |
[Sample](#) | [Shipping](#) | [About](#) | [Guarantee](#) | [Contact](#) | [Privacy](#) | [FAQ'S](#) | [Feedback](#) |
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Exhibit F

Message in a Bottle® FAQ'S

SHIPPING

How long does it take for my Message in a Bottle® to arrive at its destination from the day I order it?

We ship via **USPS Priority Mail** and delivery is usually completed within four to five business days in the continental U.S. If you choose our optional **USPS Express Mail** and place your order by 3:00 p.m. Pacific Standard Time on a regular business day, Mon.-Fri. excluding holidays, your order will arrive within two to three business days to most locations. Express Mail orders placed outside the above guidelines will require one additional business day for travel.

What delivery methods do you offer?

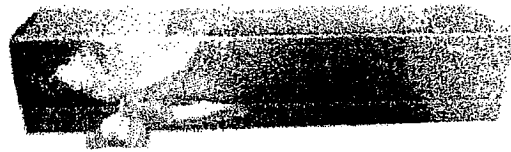
For domestic delivery we ship via **USPS Priority Mail \$4.75 - \$8.55** depending on zip code (this will be calculated during checkout) and **USPS Express Mail \$21.05** anywhere in the continental U.S.. For international delivery we ship via **USPS Global Express Mail**.

How are the bottles packaged for delivery?

We go through great lengths to ensure that our bottles arrive at their destination undamaged. We use multiple lines of protection which include protective wrap and transit tested delivery boxes.

What addresses appear on the outside of the delivery packaging?

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All Message in a Bottle®
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Traditional
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Message Sample
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Contact



Message in a Bottle®

offers a Free

Gold Gift Box

or Upgrade to a

Sweetheart Red

Box \$3.99

Wood Presentation

Box \$16.99

Beyond the recipient's address, our return address is the only address that appears on the packaging. Be sure to included your name in the text of your message if you want them to know who its from.

Where do I specify the address of where I want the bottle sent?

This is done at checkout. You will be asked to choose between sending it to the billing address or to an alternate address.

What if my Message in a Bottle® arrives damaged?

In the case that your bottle arrives damaged in any way, carefully dispose of the damaged bottle and email us immediately. We will send a replacement at once.

Can I send my Message in a Bottle® internationally?

Yes you can. To place an international order simply contact us at international@messageinabottle.com. We will provide you with ordering information as well as international shipping rates.

ORDERS

When are orders processed?

If you place your order before 3:00 pm Pacific Standard Time, Mon.-Fri. excluding holidays, your order will be processed and sent the next business day. If it is placed after the above time, one additional day is required for processing..

BOTTLES

What are the bottles made of?

All of our bottles are made of glass.

How tall are the bottles?

Our bottles vary in height although most of our full sized bottles are an average of 12 inches tall.

MESSAGES

On what type of paper do you print your messages?

The paper we use is very sheer and **translucent parchment** and is a perfect complement to our bottles.

How long can a message be?

Normally messages should be kept to what text will fit on a standard 8.5 x 11 inch page. At most this can be stretched to what text will fit on two of the above sized pages. However keeping it to one page makes it both more aesthetically pleasing and easier to remove from the bottle by the recipient.

[Home](#) | [All Message in a Bottle®](#) | [Specials](#) | [Love](#) | [Anniversary](#) | [Friendship](#) | [Birthday](#) | [Special Occasion](#) | [Traditional](#) | [For Dad](#) | [For Mom](#) | [Baby](#) | [Zodiac](#) | [Nautical](#) | [Celestial](#) | [Romantic](#) | [Flowers](#) | [Valentine's Day](#) | [Accessories](#) | [Message Sample](#) | [Shipping](#) | [About](#) | [Guarantee](#) | [Contact](#) | [Privacy](#) | [FAQ'S](#) | [Feedback](#) | [Bulletin](#) |

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sales@messageinabottle.com

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Message in a Bottle ® Shipping

DOMESTIC SHIPPING

We ship within the U.S. via United States Postal Service

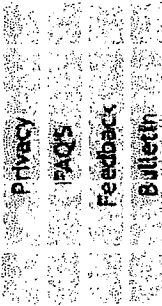
USPS Priority Mail - Standard delivery which usually takes 3-5 business days from date of order within the continental U.S. (\$5.75 to \$8.55 Depending on Zip code)

USPS Express Mail - For expedited delivery which usually takes 2-3 business days from date of order within the continental U.S. if you place your order by 3:00 p.m. Pacific Standard Time on a regular business day, Mon.-Fri. excluding holidays. Express Mail orders placed outside the above guidelines will require one additional business day for travel. (\$21.05 All Zip codes)

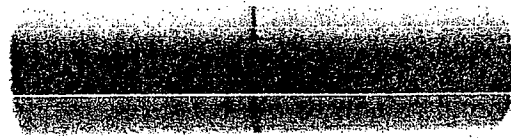
MILITARY APO, FPO SHIPPING

We ship to military destinations via USPS Priority Mail for which tracking is not available. Delivery times are usually between 3-7 business days however due to customs delivery times will vary. As APO's, FPO's etc. are considered U.S. addresses, the cost is comparable to sending a package within the United States, usually between \$5.75 and \$8.55. While checking out simply input the following in the ship-to address field.

Home
All Message in a Bottle ®
Specials
Love
Anniversary
Friendship
Birthday
Special Occasion
Traditional
For Dad
For Mom
Baby
Zodiac
Nautical
Celestial
Romantic
Flowers
Valentine's Day
Accessories
Message Sample
Shipping
About
Guarantee
Contact



1. the recipients name in the NAME FIELD
2. any post information or numbers in the ADDRESS FIELD
3. the APO in the CITY FIELD
4. the AE in the STATE/PROVINCE FIELD
5. the zip in the ZIP/POSTAL CODE FIELD.



An example would be:

NAME: John Smith
ADDRESS: PSC 82 Box 9576
CITY: APO
STATE/PROVINCE: AE
ZIP/POSTAL CODE: 09960

INTERNATIONAL SHIPPING

We ship outside the U.S. via the United States Postal Service

USPS Global Express Mail - This is the only international shipping option we offer however as package tracking is not available to all destinations, refunds on orders delivered internationally are not offered. Please contact us at international@messageinabottle.com for countries that can be serviced or if you would like to place an order for international delivery. We will provide you with ordering information and shipping rates.

[View Bottles](#)

Message in a Bottle®

offers a Free

Gold Gift Box

or Upgrade to a

Sweetheart Red

Box \$3.99

Wood Presentation

Box \$16.99

[Home](#) | [All Message in a Bottle®](#) | [Specials](#) | [Love](#) | [Anniversary](#) | [Friendship](#) |
[Birthday](#) | [Special Occasion](#) | [Traditional](#) | [For Dad](#) | [For Mom](#) | [Baby](#) | [Zodiac](#) |
[Nautical](#) | [Celestial](#) | [Romantic](#) | [Flowers](#) | [Valentine's Day](#) | [Accessories](#) | [Message](#) |
[Sample](#) | [Shipping](#) | [About](#) | [Guarantee](#) | [Contact](#) | [Privacy](#) | [FAQ'S](#) | [Feedback](#) |
[Bulletin](#) |

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Look for our signature "Gold Shells from Carmel" logo to ensure it's a real Message in a Bottle®.

Message in a Bottle® P. O. Box 1625 Carmel by the Sea, CA 93921 Email:
sales@messageinabottle.com

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Serving our Online Customers
Since 1997

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Promise

Price: \$34.99

Exhibit F.

Handcrafted
Glass Bottle
12 inches tall
Text: "Love is the Beginning of Forever"



Details:

Show them that you are committed to a lifetime of happiness together by sending them this stylish bottle. They'll know that every word is true, because after all it came from you.

Enter your own message here or scroll down to choose a prewritten message. Messages will be rolled and placed inside bottle. Select Gift Box and Add to Cart at the bottom of the page.

WRITE YOUR
OWN:

GREETING:

- PREWRITTEN: ☐ My desire for you is a flame that won't subside, it burns within me deep inside.
- ☐ You live in my heart as you do in my soul. You are the one that makes me whole.
- ☐ Your friendship means the world to me, the things you do especially. You are a friend I can rely on, one whose shoulder I can cry on. There's a few things I know to be true and one is the friendship between me and you.
- ☐ Of all the special things in life, you are the one that brings me the greatest joy. I love when you're around.
- ☐ People come and go through life, but you have always been there for me. Constantly supporting and teaching me, your presence I feel everywhere. I love you more than you know and I guess that I always will, and with so many years gone by some thought the feeling would pass, but no,

Message
in a
Bottle

Love
is the
Beginning
of Forever

I feel it still.

CLOSING :

SELECT BOX: Gold Toned Box (add \$0.00)

BURNT
EDGES: No Thanks (add \$0.00)

ADD SILK
PETALS: No Thanks (add \$0.00)

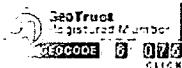
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[Message Sample](#) | [For Dad](#) |

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Call Us Toll Free 1 800 959-2069 Mon.-Fri. 9am-4pm PST

Look for our signature "Gold Shells from Carmel" logo to ensure it's a real Message in a Bottle®.
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Product	Qty.	Price	Total
Promise	1	\$34.99	\$ 34.99
WRITE YOUR OWN: test			
GREETING: test			
CLOSING: test			
SELECT BOX: Gold Toned Box			
BURNT EDGES: No Thanks			
ADD SILK PETALS: No Thanks			

Sub Total \$ 34.99

Zip Code: [estimate shipping](#) [update totals](#)

To **remove** an item from your cart, check the "x" button next to that item.
To **change** the quantity of an item, enter the new quantity in the box next to that item, and select update totals.

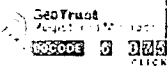
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Checkout Progress: [Account Information](#) [Shipping & Payment](#) [Place Order](#)



Account Information

Your Email:

Signup for our mailing list ☐

Billing Information

First Name:

Last Name:

Company:

Your Phone:

Address:

City:

State/Province:

Zip/Postal Code:

Country:

Shipping: ☒ Ship to billing address.

☐ Ship to another mailing address.

Please enter your billing address as it appears on your credit card statement. Rest assured your personal information and email address will NOT be shared or sold to a third party.


[Home](#) | [All Message in a Bottle®](#) | [For Mom](#) | [Love](#) | [Anniversary](#) | [Birthday](#) | [Friendship](#) | [Specials](#) | [Invitations](#) |
[Message Sample](#) | [For Dad](#) |

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Checkout Progress: [Account Information](#) [Shipping & Payment](#) [Place Order](#)



Enter your shipping address:

Enter your shipping address in the form below and click continue.

Name:

Address:

City:

State/Province:

Zip/Postal Code:

Phone:

Country:

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[Message Sample](#) | [For Dad](#) |

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Checkout Progress: [View Cart](#) > [Place Order](#)



Select your preferred method of shipping:

☒ Express - \$22.20

☐ Priority - \$5.00


Important: Make sure you have selected your preferred shipping method above.

DOMESTIC SHIPPING

USPS Priority Mail - Select this for standard delivery which usually takes **3-5 business days** from date of order within the continental U.S..

USPS Express Mail - Select this for expedited delivery which usually takes **2 business days** from date of order within the continental U.S. If you place your order by 3:00 p.m. Pacific Standard Time on a regular business day, Mon-Fri. excluding holidays. Express Mail orders placed outside the above guidelines will require additional business day for travel.

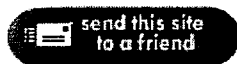
Select your payment method:

☒ Credit Card 



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Exhibit C

Subject: Message in a Bottle TM

From: "bottlemeamessage.com" <lmib@dreamweaverstudios.com>

Date: Mon, 09 Aug 2004 09:11:47 -0700

To: customerservice@messageinabottle.com, sales@messageinabottle.com

Dear Golden Shells, Inc.

I recently received a letter from the Trademark Trial and Appeal Board with a copy of your extension to file an opposition to our trademark.

Yes, we both offer a similar product a bottle housing a message...but anyone looking at the two products can see the multiple distinct differences in the products.

The style bottles used, the accent pieces, internal decorative materials utilized by us.

I created this product in 1997 and new of your pending trademark at the time, but felt we were and have developed two different products.

I began selling my MIBs officially on the net in late 97, our two products are more different than similar.

I wish to receive my registered trademark, so I may cease and desist companies like ebottles.com, marketinginabottle.com and others who have for the past two years infringe on my intellectual property rights.

These companies are not message in a bottle companies like ours, they are simply capitalizing on my creativity, we both fill completely different niches, I had hoped of forming a Message in a Bottle Association for us and possibly other Message in a Bottle companies, whom offer similar but distinctly different products. There are 200 Million Americans if we each can get 1 million sales from those 200 Million life would be very good for the both of us.

Like I have said before, we both have similar but very different products...

I would appreciate a reply..

Respectfully,

Keith Cangiarella

DreamWeaver Studios

<http://www.bottlemeamessage.com>

originally in the early days <http://www.dreamweaverstudios.com>

Subject: ATTN - MR ROJAS

From: "bottlemeamessage.com" <1mib@dreamweaverstudios.com>

Date: Wed, 29 Sep 2004 09:57:54 -0700

To: customerservice@messageinabottle.com, gsinc@sbcglobal.net, sales@messageinabottle.com

Mr. Rojas,

My attorney has advised me that you are currently not represented by an attorney and it would be appropriate for I to see if we can come to some agreement.

My attorney advised me to call you, but I prefer to do things in a written form, personally I think attorneys like to here themselves talk, rather than listen.

I am contacting you today, in an effort that we can work out our differences between two business owners, rather than us both spending needless amounts of money on attorney fees.

My goal from this email is to come to an agreement, whereby we enter into a coexistence agreement, which basically would state, we agree to allow each other to do business, you agree not to oppose my trademark registration, I agree not to use my trademark registration against you.

You agree to contact Overture and allow us to advertise once again under "Message in a Bottle"

We both have unique products and can both benefit each other, by working together, rather than feeding lawyers our hard earned money.

I will request a written response from you no later than 3pm today.

I look forward to your written reply, if you do not reply I will be forced to take futher actions.

Keith Cangiarella
DreamWeaver Studios
<http://www.bottlemeamessage.com>
714-464-4112 fax

Re: ATTN - MR ROJAS

Subject: Re: ATTN - MR ROJAS

From: <customerservice@messageinabottle.com>

Date: Thu, 30 Sep 2004 17:12:43 -0700

To: "bottlemeamessage.com" <lmib@dreamweaverstudios.com>

Mr. Cangiarella:

This will respond to your e-mail yesterday.

I do not want to enter into a co-existence agreement with you which would allow you to continue to use "Message in a Bottle" as a trademark and service mark. My attorney, Peter Smith (who is the former trademark counsel for the Gallo Winery), has advised me that I have priority over you as to "Message in a Bottle". When my federal service mark registration was issued on May 4, 1999, it resulted in a priority date of January 6, 1997, the filing date of my intent-to-use application. See 15 U.S.C. §1057(c). This date is prior to your alleged first use, and indeed you have acknowledged in writing that you knew about my application at the time you started doing business. Mr. Smith will be writing to your attorney about this.

I believe it is important for me to keep my registration and keep the register at the Patent & Trademark Office free of other "Message in a Bottle" marks. Thus, I ask that you drop your trademark application and stop using the mark, though I am willing to entertain a reasonable use-up period for your existing materials with the mark.

Also, as the registered trademark owner, I would like to continue to be the only advertiser on Overture with this mark.

Of course I have no problem with your running a competing business, only with your using my firm's service mark and trademark, "Message in a Bottle".

Absent your agreement, I will proceed with an opposition to your trademark application and I reserve the right to also file an infringement suit.

Please advise if you will comply and if so, what use-up period you propose.

Very truly yours,

Roger Rojas

Gold Shells, Inc.

----- Original Message -----

From: "bottlemeamessage.com" <lmib@dreamweaverstudios.com>

To: <customerservice@messageinabottle.com>; <asinc@sbcglobal.net>;

<sales@messageinabottle.com>

Sent: Wednesday, September 29, 2004 9:57 AM

Subject: ATTN - MR ROJAS

Mr. Rojas,

My attorney has advised me that you are currently not represented by an attorney and it would be appropriate for I to see if we can come to some agreement.

Re: ATTN - MR ROJAS

My attorney advised me to call you, but I prefer to do things in a written form, personally I think attorneys like to hear themselves talk, rather than listen.

I am contacting you today, in an effort that we can work out our differences between two business owners, rather than us both spending needless amounts of money on attorney fees.

My goal from this email is to come to an agreement, whereby we enter into a coexistence agreement, which basically would state, we agree to allow each other to do business, you agree not to oppose my trademark registration, I agree not to use my trademark registration against you. You agree to contact Overture and allow us to advertise once again under "Message in a Bottle"
We both have unique products and can both benefit each other, by working together, rather than feeding lawyers our hard earned money.

I will request a written response from you no later than 3pm today.

I look forward to your written reply, if you do not reply I will be forced to take further actions.

Keith Cangiarella
DreamWeaver Studios
<http://www.bottlemeamessage.com>
714-464-4112 fax

Exhibit I

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: June 29, 2005

Opposition No. 91162780

GOLD SHELLS, INC.¹

v.

Cangiarella, Keith

Peter Cataldo, Interlocutory Attorney

On June 1, 2005, the Board issued a notice of default against opposer and counterclaim defendant, Gold Shells, Inc., based upon its failure to timely file its answer to applicant's counterclaim. In its response, filed on June 16, 2005, opposer indicates that on April 27, 2005, it timely filed its answer and motion to substitute Gold Shells, Inc. as counterclaim defendant herein.² Based upon the showing made in opposer's response, the June 1, 2005 notice of default is hereby discharged and opposer/counterclaim defendant's answer to applicant's counterclaim is accepted as its responsive pleading herein.

¹ It is noted that opposer and counterclaim defendant Gold Shells, Inc. is owner of the registration subject to applicant's counterclaim herein by virtue of an assignment from original registrant recorded with the Assignment Branch of this Office on October 15, 2004 at Reel 3061/Frame 0965.

² It is noted that the Board is not in receipt of opposer's April 27, 2005 filing.

Trial dates remain as indicated in the Board's March 30, 2005 order.

If the parties stipulate to any extension of these dates, the stipulation should set forth the dates in the format shown in this order. See Trademark Rule 2.121(d).

* * * * *

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

<p>In the Matter of Trademark Application Serial No. 78/229,875 Mark: MESSAGE IN A BOTTLE</p> <p>GOLD SHELLS, INC., a California corporation, Opposer,</p> <p>v. KEITH CANGIARELLA, Applicant.</p> <p>-----</p> <p>In the Matter of Trademark Registration No. 2,243,269 Mark: MESSAGE IN A BOTTLE</p> <p>KEITH CANGIARELLA, Petitioner,</p> <p>v. ROGER ROJAS, Respondent.</p>	<p>Opposition No. 91162780 and Counterclaim for Cancellation</p> <p>Filed 6/16/05</p>
---	---

**MOTION OF RESPONDENT ROGER ROJAS FOR SUBSTITUTION
OF GOLD SHELLS, INC., AS RESPONDENT**

In the above-referenced proceeding, Applicant/Petitioner Keith Cangiarella has filed a counterclaim against Respondent Roger Rojas for cancellation of Registration No. 2,243,269 for MESSAGE IN A BOTTLE. In fact, on April 8, 2005, the U.S. Patent & Trademark Office gave notice of recordation of assignment of this registration from Roger Rojas to Gold Shells, Inc., the Opposer herein, with a recordation date of October 15, 2004. The assignment is recorded as no. 102859988 on Reel No. 003061, Frame No. 0965, in the

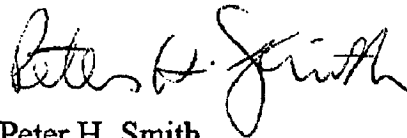
Assignment Division of the U.S. Patent & Trademark Office.

Trademark Rule 2.113(c) says, in part, "The respondent shall be the party shown by the records of the Office to be the current owner of the registration(s) sought to be cancelled, except that the Board, in its discretion, may join or substitute as respondent a party who makes a showing of current ownership interest in such registration(s)."

To avoid confusion in the above-referenced proceeding, Respondent Roger Rojas hereby moves that the Trademark Trial & Appeal Board substitute Gold Shells, Inc., for him as Respondent in the counterclaim for cancellation.

Dated April 27, 2005.

Respectfully submitted,

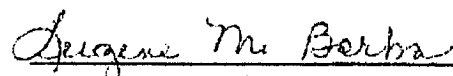


Peter H. Smith
Attorney at Law
1535 J Street, Suite A
P.O. Box 1867
Modesto, CA 95353
Telephone: (209) 579-9524
Facsimile: (209) 579-9940

Attorney for Respondent Roger Rojas and
Opposer Gold Shells, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion of Respondent Roger Rojas for Substitution of Gold Shells, Inc., as Respondent was mailed first class mail, postage pre-paid, to Stephen L. Anderson, Esq., and Hao Fang, Esq., Anderson & Associates, 27349 Jefferson Avenue, Suite 211, Temecula, CA 92590, attorneys for Applicant/Petitioner Keith Cangiarella, on April 27, 2005.


Lugene M. Borba

CERTIFICATE OF EXPRESS MAILING UNDER 37 CFR §2.198

Mark: MESSAGE IN A BOTTLE

Registration No.: 2,243,269

Opposition No.: 91162780

Mailing Date: March 30, 2005

Name of parties filing paper: Roger Rojas and Gold Shells, Inc.

Type of paper being filed: Motion of Respondent Roger Rojas for Substitution of Gold Shells, Inc., as Respondent

Express Mail Mailing Label Number: ED 448781823 US

Date of Deposit: April 27, 2005

I hereby certify that the above-identified motion of respondent Roger Rojas for substitution of Gold Shells, Inc., as respondent, which is attached, is being deposited on April 27, 2005, with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR §2.198 in an envelope addressed to: U.S. Patent & Trademark Office, Trademark Trial & Appeal Board, P. O. Box 1451, Alexandria, VA 22313-1451.

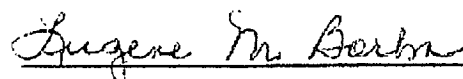

Lugene M. Borba
Date: April 27, 2005

Exhibit J.

Welcome to the Original Message in a Bottle™ Shop



Message in a Bottle™ Shop

• Wedding Invitations
Message in a Bottle

• Party Invitation
Message in a Bottle

• Promotional
Message in a Bottle

• Survivor
Message in a Bottle

• Lost
Message in a Bottle

• Treasure Island
Message in a Bottle

• Christmas
Message in a Bottle

• Message Harbor

• Seashore
Message in a Bottle

• Coastal
Message in a Bottle

• Love
Message in a Bottle

• Inspirational
Message in a Bottle

• Bottles Only & More

• Design Your Own
Message in a Bottle

• New - MIB Prints

• MIB - Samples

• Shopping Cart

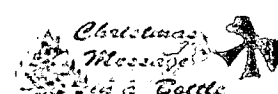
• Sitemap

• Email Us

• FAQ

• Legal Info

• Comments



**Speaking to the right words is hard to do,
capturing the emotions and the moment,
when you speak to their heart, fill a MIB with the
right words, emotions and they will
remember it forever.™**

**ORDER TODAY,
A unique and affordable alternative to a greeting card.
Imagine their smiles, Imagine the Thank yous**

See the World Pink - in Planet Pink - Fantasia Books

Design Your Own Message in a Bottle

**Wine Size MIB
10.5 inches x 2.35
inches
Only \$24.99**

**Original MIB
7 inches x 2 inches
Only \$21.99 for glass
\$19.99 for plastic**

**MIB Fundraising
What a way to fundraise
with our unique
product.
receive 200% profit on
every order.**

Check this out!!

Seashore
Message in a Bottle



**Seashore
Message in a
Bottle**



**Love
Message in a
Bottle**



**Coastal
Message in a
Bottle**



**Inspirational
Message in a
Bottle**

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- Company Info
- Message in a Bottle Links
- Message in a Bottle Articles Library
- Home Page

Call us 714-441-3442
DreamWeaver Studios

Wedding
Invitations



Message in a Bottle

**Wedding
Invitations
Message in a
Bottle**

PARTY
Invitations
Message in a Bottle



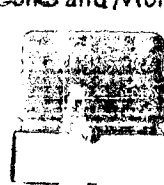
**Party Invitations
Message in a
Bottle**

Promotional



**Promotional
Message in a
Bottle**

**Bottles,
Corks and More...**



Message in a Bottle

**Message in a
Bottle Kit - DIY**



Official Invite to the
ESPN Super Bowl VIPS,
House of Blues,
Cincinnati Red, and
more...



**Treasure Island
Message in a
Bottle**



**Christmas
Message in a
Bottle**

Each MIB is created the moment you order it, we hand assemble each one, no two are ever exactly alike. We take pride in our Message in a Bottle products.

Not finding what your looking for then Design Your Own Message in a Bottle.

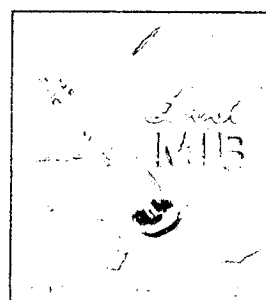
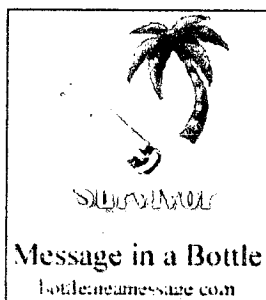
Make Great First
impressions

Love and a
Message in a
Bottle

Got a Crush and
Message in a
Bottle

Destination
Weddings

Lets go...



- Anniversary - We recommend a Sea of Hearts MIB
- Birthday - Celebrate with a Tropical Island MIB
- Father's Day - We recommend an Original MIB
- In the Dog house - Send her a Love among the Stars MIB
- Make them smile with a Seashell Bay MIB

Enhance your MIB with our new Custom MIB prints [Click Here](#)

Welcome to the Original Message in a Bottle™ Shop



Message in a Bottle™ Shop

• Wedding Invitations
Message in a Bottle

Tell a friend :



• Party Invitation
Message in a Bottle

Seashore Collection

[Message in a Bottle Destination Wedding](#) [Make Great First Impressions](#) [Cast Away Your Fear](#)

• Promotional
Message in a Bottle

• Survivor
Message in a Bottle

**Send a Message in a Bottle to that special someone,
A MIB filled with more than just words, but love and the sparkle of
the magic of the moment, captured forever.
A message in a bottle will make them Smile**

• Lost
Message in a Bottle

**A unique and affordable alternative to a greeting card.
Imagine their smiles, Imagine the Thank yous**

• Treasure Island
Message in a Bottle

**This collection offers many different elements, experiences and emotions you
would find on the Seashore**

• Christmas
Message in a Bottle

• Message Harbor

• Seashore
Message in a Bottle

• Coastal
Message in a Bottle

**Each of these MIBs will have one or more of the following confettis, as well as
other to fit the theme of the MIB, inside the Message in a Bottle, when you check
out you will choose your parchment paper and sand color.**

• Love
Message in a Bottle

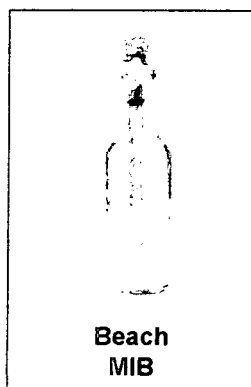


• Inspirational
Message in a Bottle

Choose a Seashore Message in a Bottle

• Bottles Only & More

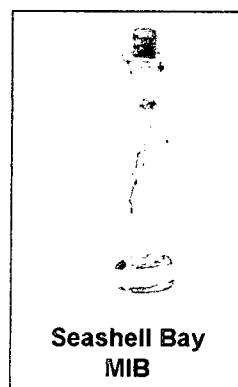
• Design Your Own
Message in a Bottle



**Beach
MIB**

• New - MIB Prints

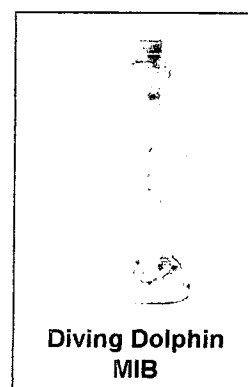
• MIB - Samples



**Seashell Bay
MIB**

• Shopping Cart

• Sitemap



**Diving Dolphin
MIB**

• Email Us

• FAQ

• Legal Info

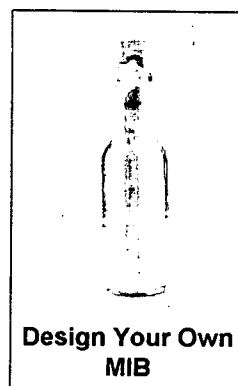
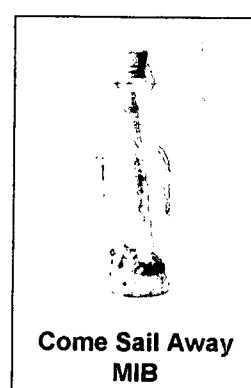
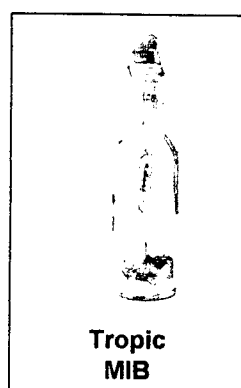
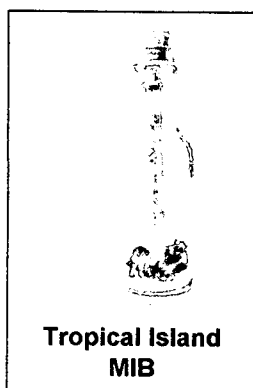
• Comments

- Message in a Bottle Fundraiser
- Company Info
- Message in a Bottle Links
- Message in a Bottle Articles Library
- Home Page

Call us 714-441-3442
DreamWeaver Studios



Official Invite to the
ESPN Super Bowl VIPs,
House of Blues,
Cincinnati Red, and
more...



A message in a bottle is the one gift they will display proudly at their home or office. No two are ever quite the same. Every time you pick it up the interior changes, the scene, the emotions and the message are remembered.

Message in a bottle make great wedding and party invitations and favors, they also work extremely well as promotional and corporate event announcement and invites.

Tell a friend : friend's email?



Getting the Date with a Message in a Bottle

It's always so hard, isn't it?

Getting up the courage to ask someone out on a date.

Sure you've made eye contact with them, even chatted with them, but ask them out for a date? Just the thought makes you break into a sweat and want to run, hide in a closet somewhere.

Well, you can relax! Because asking someone for a date just got a lot easier. All you have to do is ask the person you're interested for a date using a Message In A Bottle—and let it take any possible heat.

Or, if you've gotten past the first date hurdle and want another and another and another . . . Well then, use a Message in a Bottle to turn up the heat! Who knows where it all might lead. (Hopefully, to the two of you moving onto to even warmer and warmer things. Like a nice, cool bottle of wine—and a nicer, warm bottle of oil. Ooo-la-la!)

Welcome to the

Original Message in a Bottle™ Shop



Message in a Bottle™ Shop

- Wedding Invitations
Message in a Bottle

Tell a friend :



- Party Invitation
Message in a Bottle

Seashore Collection

- Promotional
Message in a Bottle

[Message in a Bottle Destination Wedding](#) [Make Great First Impressions](#) [Cast Away Your Fear](#)

- Survivor
Message in a Bottle

Tropical Island Message in a Bottle

You choose your parchment paper color and sand color when you check out.

- Lost
Message in a Bottle

ORDER TODAY,

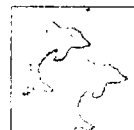
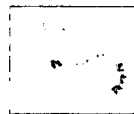
**A unique and affordable alternative to a card.
Imagine their smiles, Imagine the Thank yous**

- Treasure Island
Message in a Bottle

- Christmas
Message in a Bottle

Confetti in the Bottle and real seashells too

- Message Harbor



- Seashore
Message in a Bottle

- Coastal
Message in a Bottle

- Love
Message in a Bottle

- Inspirational
Message in a Bottle

- Bottles Only & More

- Design Your Own
Message in a Bottle

- New - MIB Prints

- MIB - Samples

- Shopping Cart

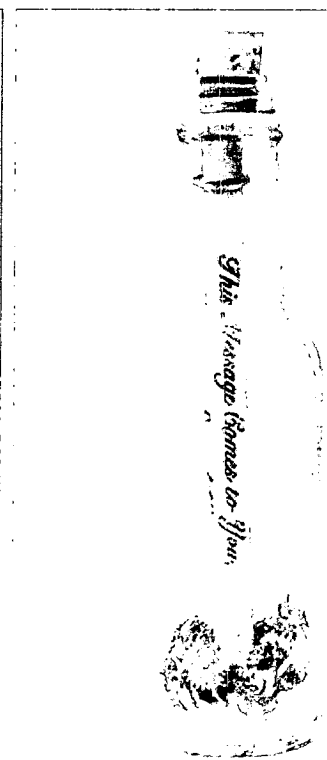
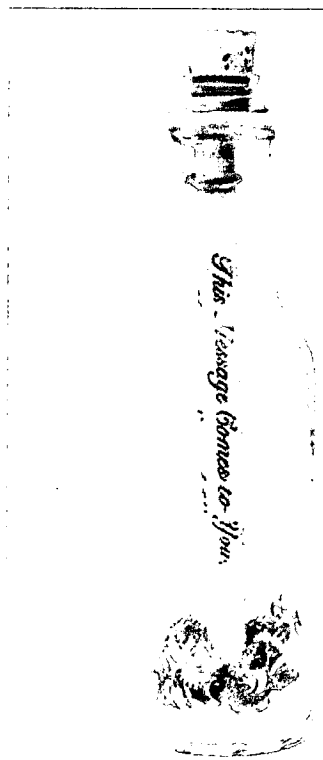
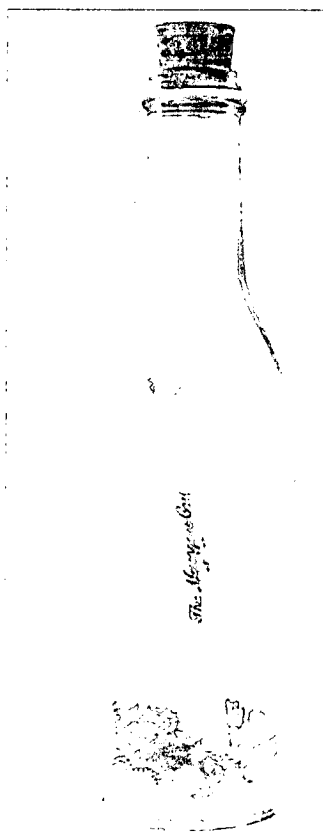
- Sitemap

- Email Us

- FAQ

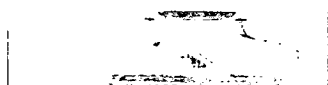
- Legal Info

- Comments



- Message in a Bottle Fundraiser
- Company Info
- Message in a Bottle Links
- Message in a Bottle Articles Library
- Home Page

Call us 714-441-3442
DreamWeaver Studios



10.5 x 2.5 inches
\$24.99

7 x 2 inches
\$21.99

7 x 2 inches
\$19.99 - plastic

[Click here to
ORDER NOW!](#)

Tell a friend : friend's email?



Getting the Date with a Message in a Bottle



Official Invite to the
ESPN Super Bowl VIPS,
House of Blues,
Cincinnati Red, and
more...

It's always so hard, isn't it?

Getting up the courage to ask someone out on a date.

Sure you've made eye contact with them, even chatted with them, but ask them out for a date? Just the thought makes you break into a sweat and want to run, hide in a closet somewhere.

Well, you can relax! Because asking someone for a date just got a lot easier. All you have to do is ask the person you're interested for a date using a Message In A Bottle—and let it take any possible heat.

Or, if you've gotten past the first date hurdle and want another and another and another . . . Well then, use a Message in a Bottle to turn up the heat! Who knows where it all might lead. (Hopefully, to the two of you moving onto to even warmer and warmer things. Like a nice, cool bottle of wine—and a nicer, warm bottle of oil. Ooo-la-la!)

Because, really, who could resist getting asked out for a date when you've shown such a fabulous flair for the unique by doing it with a Message in a Bottle? Doesn't that just automatically tell the person you're asking out that they can expect wonderful, clever things from you? I should think so. And more important, so will they.

And oh, the things you can say! Without ever opening your mouth! The possibilities are as endless as the ocean tides. Truly. Using one of our Message in a Bottle messages to ask out your potential significant other (or potential just-for-this-weekend significant other) makes it so easy and painless that you'll want to smack yourself for not thinking of it sooner. Please don't hit yourself, though. You don't want an ugly bruise marring your looks when you go out on your date.

You can also compose your own special Message in a Bottle date request. What better way could there be to show your want-to-go-out-with-so badly someone what a great imagination you have—or how much you like them?

So, whip up a clever little poem that shows your sense of humor to ask someone out for a date. Or, better, draft an invitation for the romantic night of your, um, I mean, their dreams. You can do it. You watch Oprah, so I know you can.

But if you don't think so, you can always borrow from the great poets like Shakespeare to ask someone out for a date in your Message in a Bottle—or you can ask one of your romantic friends who has a creative way with words to help you (just be sure to give credit where credit is due!). Romantic poems are a fabulous way to entice someone to go on a date with you. They're just soooo, well, romantic! And since only a few hard-hearted people who don't know a good thing when they see it can resist a true romantic, you can be pretty darn sure the person you ask out for a date will say yes.

And it's all so easy! Who knew? No more stammering. No more sleepless nights, tossing

Welcome to the

Original Message in a Bottle™ Shop



Message in a Bottle™ Shop

• Wedding Invitations
Message in a Bottle

• Party Invitation
Message in a Bottle

• Promotional
Message in a Bottle

• Survivor
Message in a Bottle

• Lost
Message in a Bottle

• Treasure Island
Message in a Bottle

• Christmas
Message in a Bottle

• Message Harbor

• Seashore
Message in a Bottle

• Coastal
Message in a Bottle

• Love
Message in a Bottle

• Inspirational
Message in a Bottle

• Bottles Only & more

• Design Your Own
Message in a Bottle

• MIB Samples

• New - MIB Prints

• Shopping Cart

• Sitemap

• Email Us

• FAQ

MIB Shopping Cart

You can not select more than one MIB

Please remove the selected MIB from your shopping cart and then choose another MIB.

Order Identification No : 40448

MIB Information

Your MIB : [click to remove MIB]
Tropical Island Message in a Bottle

Please write a opening for the message, i.e. Dear Sara, Sara, Hello Sara....

test

Your Message : [click to remove Message]
miss you love you

Please write a closing for the message, i.e. Love Tom, Tom, Your Friend Tom...

test

Attach File : Browse...

Choose your type of bottle :

- Wine 10.5 inches x 2.35 inches for only \$ 24.99
- Glass 7 inches x 2 inches for only \$ 21.99
- Plastic 7 inches x 2 inches for only \$ 19.99

Your MIB Prints : [Click here to choose MIB Prints]
None

Choose your Confettis :



- Legal Info
- Comments
- Message in a Bottle Fundraiser
- Company Info
- Message in a Bottle Links
- Message in a Bottle Articles Library
- Home Page


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Cincinnati
Reds
and
Reds
Communi


Official Invite to the
ESPN Super Bowl VIPS,
House of Blues,
Cincinnati Red, and
more...


Choose your Sand Color :



☐ Dark Blue Sand


☐ Crystal and Blue


☐ Crystal and Black


☐ Sparkly white sand


☐ Sparky Pink Sand


☐ Natural Beach Sand

Choose your Parchment Paper :

☐ Golden tan parchment

☐ White parchment

☐ Light blue parchment

Custom Background :

Want a custom color background, input your request below, be very descriptive, for example, tropical island background with setting sun, spring flowers background, hearts, rubber ducks swimming in the ocean, coastal shot with palm trees, ocean waves breaking on a cliff, setting sun on a tropical island, treasure map, small dog walking on the beach or a big palm tree. We will create a background for you from our 1000s of images, compress and send it to you for your approval, you will email us a go to print. Price is based on how much work is involved and volume of MIBs ordered. We will email you a price quote.

Insert comments or special instructions above, if you would like something different than the above confettis and seashells we have hundreds of confettis we can order, from brides and grooms, wedding bells, to hearts, x and o's, input your request and we will see what we can come up with, we will email you scanned images of the confetti for your review.

Customer Information

Sender Information :-

* Your Name : test

* Your Address Line 1 : test

Your Address Line 2 : test

* Your City : test * Your State : test

* Your Zip : test * Your Phone : test

* Country : test

* Your Email address : 1mib@dreamweaverstu (so that we can email you, your confirmation)

If using a free email account such as yahoo, gmail, hotmail, your email receipt will be considered spam and will be sent to your trash/junk folder, be sure to check it.

How did you hear about us?

test

Recipients Information :-

☐ Recipients Same as above Sender Name and Address

Recipients Name : test

Recipients Address Line 1 : test

Recipients Address Line 2 : test

Recipients City : test Recipients State : test

Recipients Zip : test Recipients Phone : test

Recipients Country : test

Recipients Email address : test

When would you like your Message in a bottle delivered?

☒ Ship my Message in a bottle via Priority 2-3 day USPS mail (FREE)

Ship my Message in a bottle FEDEX* Overnight Delivery(this is not FREE, the price of the MIB will be on the email sent to you, we will charge you exactly what Fedex charges us at the time we ship it. Fedex charges are an additional charge on the top of

the price of the MIB) (order must be received by 12 noon PST, otherwise order will be sent following day)

PLEASE NOTE - If today is Friday, choosing this option above will have your MIB delivered on Monday via Fedex, not Saturday. If you want your MIB delivered on Saturday, use the specific date option below. Be warned the cost for Saturday delivery via Fedex is expensive. Please take note

☐ I want my Message in a bottle to arrive on a special date/special instructions please enter the date you would like the message in a bottle delivered below. **(this is not FREE, it is sent via FEDEX overnight, the price of the MIB will be on the email sent to you, we will charge you exactly what Fedex charges us at the time we ship it. Fedex charges are an additional charge on the top of the price of the MIB)**

Total Order Amount : \$ 24.99

* **Card Number :** 411111111111

* **Card Type :** Visa

* **Expiration Date :** Month 1 Year 09 (Range: 1997-2020)

* **CVV2 :** 342

Please turn over your card and look in the signature strip we need the last three or four numbers found at the end of the signature strip. This is very important.

[Submit Your Shopping Cart >>](#)

Website copyright2004DreamWeaver Studios

Message in a Bottle™ Shop

Exhibit K

Chapter 1400 — Classification and Identification of Goods and Services

1401 Classification

1401.01 Statutory Authority

1401.02 International Trademark Classification Adopted

1401.02(a) Headings of International Trademark Classes

1401.02(b) Short Titles for International Trademark Classes

1401.02(c) International Alphabetical List

1401.03 Designation of Class

1401.03(a) Designation of Class by Applicant Normally Accepted in Applications Under §§1 and 44

1401.03(b) Designation of Class by Office When Class Number Is Not Designated or Is Inaccurate in Application Under §1 or §44

1401.03(c) Failure to Classify May Delay Action in Applications Under §§1 and 44

1401.03(d) Classification Determined by World Intellectual Property Organization in §66(a) Applications

1401.04 Classification Determines Number of Fees

1401.04(a) Prior U.S. Classification System

1401.04(b) Limiting Goods and Services to the Number of Classes for Which Filing Fees Are Paid

1401.05 Criteria on Which International Classification Is Based

1401.06 Specimens as Related to Classification

1401.06(a) Specimen Discloses Special Characteristics

1401.07 Classification and Plurality of Uses

1401.08 Classification and the Identification of Goods and Services, In General

1401.09 Changes in Practice Based on the Restructuring of International Class 42 in the 8th Edition of the Nice Agreement

1401.09(a) Elimination of "Miscellaneous Class Designation"

TRADEMARK MANUAL OF EXAMINING PROCEDURE

1401.09(b) Implementation of the Changes

1402 Identification of Goods and Services

1402.01 Specifying the Goods and/or Services - in General

1402.01(a) General Guidelines for Acceptable Identifications of Goods or Services

1402.01(b) Identification of Goods and Services in a §44 Application

1402.01(c) Identification of Goods and Services in a §66(a) Application

1402.01(d) Location of "Identification of Goods and Services"

1402.01(e) Responsibilities of Examining Attorney as to Identification

1402.02 Entitlement to Filing Date With Respect to Specification of Goods and Services

1402.03 Specificity of Terms Used in Identifying Goods and Services

1402.03(a) Inclusive Terminology

1402.03(b) House Marks

1402.03(c) Marks for a "Full Line of ..."

1402.03(d) Identifying Computer Programs with Specificity

1402.03(e) Identifying Publications with Specificity

1402.04 Acceptable Identification of Goods and Services Manual

1402.05 Accuracy of Identification

1402.05(a) Goods That Are Components or Ingredients

1402.05(b) Material Composition

1402.06 Amendments Permitted to Clarify or Limit Identification

1402.06(a) Limiting the Identification of Goods and Services

1402.06(b) Clarifying the Identification of Goods and Services

1402.07 Scope of Identification of Goods and Services for Purposes of Amendment

1402.07(a) The "Ordinary-Meaning" Test

1402.07(b) Ambiguous Identifications

1402.07(c) Unambiguous Identifications

1402.07(d) Permissible Scope of Identification Not Affected by Proposed Amendment That Is Unacceptable

TRADEMARK MANUAL OF EXAMINING PROCEDURE

1401.09(b) Implementation of the Changes

The new requirements of the 8th edition of the Nice Agreement apply only to applications filed on or after January 1, 2002. In an application filed before January 1, 2002, the examining attorney may give the applicant the option of remaining in compliance with the 7th edition of the Nice Agreement or amending the application to comply with the classification requirements of the 8th edition. The applicant may, of its own accord, submit an amendment to its application that brings it into compliance with the 8th edition of the Nice Agreement.

1402 Identification of Goods and Services

1402.01 Specifying the Goods and/or Services - in General

A written application must specify the particular goods or services on or in connection with which the applicant uses, or has a bona fide intention to use, the mark in commerce. 15 U.S.C. §§1051(a)(2) and 1051(b)(2); 37 C.F.R. §2.32(a)(6). To "specify" means to name in an explicit manner. The identification of goods or services should set forth common names, using terminology that is generally understood. For products or services that do not have common names, the applicant should use clear and succinct language to describe or explain the item. Technical or esoteric language and lengthy descriptions of characteristics or uses are not appropriate.

The language used to describe goods or services should be understandable to the average person and should not require an in-depth knowledge of the relevant field. An identification may include terms of art in a particular field or industry, but, if these terms are not widely understood by the general population, the identification should include an explanation of the specialized terminology.

The identification of goods or services must be specific, definite, clear, accurate and concise. See *In re Societe Generale des Eaux Minerales de Vittel S.A.*, 1 USPQ2d 1296 (TTAB 1986), *rev'd on other grounds*, 824 F.2d 957, 3 USPQ2d 1450 (Fed. Cir. 1987); *Procter & Gamble Co. v. Economics Laboratory, Inc.*, 175 USPQ 505 (TTAB 1972), *modified without opinion*, 498 F.2d 1406, 181 USPQ 722 (C.C.P.A. 1974); *In re Cardinal Laboratories, Inc.*, 149 USPQ 709 (TTAB 1966); *California Spray-Chemical Corp. v. Osmose Wood Preserving Co. of America, Inc.*, 102 USPQ 321 (Comm'r Pats. 1954); *Ex parte A.C. Gilbert Co.*, 99 USPQ 344 (Comm'r Pats. 1953).

The accuracy of identification language in the original application is important because the identification cannot later be expanded. See 37 C.F.R. §2.71(a); TMEP §§1402.06 and 1402.07 *et seq.*; *In re M.V Et Associes*, 21 USPQ2d 1628 (Comm'r Pats. 1991).

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Trademark Application Serial No.: 78/229,875 Mark: MESSAGE IN A BOTTLE	Opposition No. 91162780 Cancellation No. _____
GOLD SHELLS, INC., a California corporation, Opposer, v. KEITH CANGIARELLA, Applicant.	APPLICANT'S REPLY BRIEF IN SUPPORT OF APPLICANT'S MOTION FOR SUMMARY JUDGMENT IN OPPOSITION PROCEEDING
----- In the Matter of Trademark Registration No.: 2,243,269 Mark: MESSAGE IN A BOTTLE	
KEITH CANGIARELLA, Petitioner, v. Gold Shells, Inc, Opposer	

**APPLICANT'S REPLY BRIEF IN SUPPORT OF APPLICANT'S
MOTION FOR SUMMARY JUDGEMENT IN OPPOSITION PROCEEDING
"IN PRO PER"**

On June 30, 2006, Applicant Keith Cangiarella, filed a Motion for Summary Judgment seeking a grant of summary judgment in its favor. Opposer, Gold Shells, Inc subsequently filed Opposer Gold Shells, Inc Response to Applicant's Motion for Summary Judgment on August 11, 2006. Applicant hereby responds by filing this Reply Brief in Support of Applicant's Motion for Summary Judgment. Applicant maintains that there is no genuine issue of material fact as to the likelihood of confusion and that the Board should grant summary judgment in Applicant's favor.

REBUTTAL OF OPPOSER'S DISPUTED FACTS

Opposer has raised a number of issues regarding disputed facts which have been undisputed by the evidence during discovery and proceedings before the Board.

Points 1, 2 – Motion of Respondent Roger Rojas for Substitution of Gold Shells, Inc., as Respondent filed June 16, 2006, acknowledged by the Board, June 29, 2005(Exhibit I, Declaration of Keith Cangiarella, hereby DKC)

Point 9 – The Opposer demonstrates via Exhibit F, in the Affidavit of Roger Rojas, hereby ARR, and Exhibit C of DKC, has the actual letter of letter Mr. Cannon February 6, 2004, which demonstrates pay per click advertising was not utilized and did not start until 2004, not January 1999.

The remaining points can be undisputed via the Trademark Manual of Examining Procedures Chapter 1400 Classification and Identification of Goods and Services, subchapter 1402.01 Specifying the Goods and/or Services – In General – (Exhibit K in DKC)

A written application must specify the particular goods or services on or in connection with which the applicant uses or has a bona fide intention to use the mark in commerce. The identification of goods or services must be specific, definite, clear, accurate and concise.

No party reviewing the services as stated in the Opposer's Registration would be able to ascertain the services or the goods for which they were going to be attached to. Surely, the Opposer would not expect any party to simply read those services and understand that it meant the sending and receiving of messages in a tangible gift product, based on the classification and services listed.

REBUTTAL OF ANALYSIS

The Opposer has demonstrated its own failure to clearly and specifically identify its services per TMEP 1402.01. By stating "one of those means" on page 8 of the Opposer's Opposition to Motion does the Opposer have the Board believe that his services can be interpreted to suit the Opposer's current needs. Also "one of those means", means there are many, and who is to determine that. The Applicant does not receive communications, the Applicant received orders, via telephone, online order form, via web browser, brochures, the orders are for products which may or not have a personal message to be sent to the recipient. (See Exhibit J in DKC) The Applicant does not transmit anything to his customers, he utilized a third party, US Postal service and other third party delivery services.

When other evidence is considered from both parties, and public sources, the likelihood of confusion is moot.

REBUTTAL TO OPPOSER'S ARGUMENT

Opposer has gone through great lengths to rebut the Applicants argument, that the Opposer's services and the Applicant's goods are the same.

The Opposer in its own Opposition to this Motion clearly states “one of those means” on page 8 of the Opposer’s Opposition to Motion.

Taking a look at the services described in the Opposer’s registration and how many means may be interpreted.

Receiving communications from others – telephone, radio, television, satellite, telegram, email, two cans tied together by a single string pulled taught, etc

Recording such communications in written or printed form – write on paper, etch in stone or glass, record on disc, write on hand, write in sky, save on hard drive, on computer screen, in a PDF, etc.

Transmitting such communications – radio, television, satellite, internet, telephone, two cans tied together by a single string pulled taught, etc

As the Board can see above, the services render themselves to endless interpretation, clearly not meeting the TMEP 1402.1.

Opposer agrees that its service starts off intangible but than takes tangible form, “recorded in written or printed form”, the end results remain the same based on the services a transmission, once again turning the tangible into intangible to be sent from one person to another, no third party, direct from the Opposer to the recipient. For example a telegram, telephone lines, an email, a electronic greeting card, and radio or television signals.

Opposer states the PTO does not clearly define the services in class 38 as sending electronic communications, via telephone, TV, computer in 1997. Once again the Opposer has gone through great lengths to stretch the truth. The Oppose is and was represented by well experienced counsel now and then, the services listed under International Class 38 have not changed from 1997 , Exhibit G of ARR, only clarify that the PTO understands the services to be electronic.

Opposer states that actual confusion has occurred. The Applicant wishes to state Exhibit H from Affidavit of Roger Rojas was not received during discovery, lots of documents were exchanged and this one may have been overlooked by Opposer accidentally. This “confusion” occurred in May 2004, five years after the Opposer began using the mark in January 1999, concurrent with Applicant. The actual confusion was caused by the Opposer see Exhibit C of DKC and Exhibit F of ARR. The confusion was created by Opposer whom began policing its mark in 2004, causing Yahoo(formerly Overture, Inc) to remove Applicant’s website(s) from its

search engines, and pay per click advertising. The Opposer created the confusion first, by stopping the Applicant's normal route of communications(search engine listings and pay per click ad) with its customers, and they now seek to profit from the confusion they caused in the first place.

Opposer right to priority under Section 7(c) of the Lahman Act is still moot based on the prior evidence and this motion.

REBUTTAL OF THE INDICATORS OF LIKELIHOOD OF CONFUSION

The Opposer has gone through great lengths to demonstrate likelihood of confusion; the Applicant believes he has properly addresses these issues in prior rebuttals.

A few points the Applicant wishes to address –

Point 3 – Applicant uses more than paid internet search engines(properly termed pay per click advertising), and search engines. Paper fliers, brochures, tradeshow, and other non internet related outlets. Applicant sets its trade channels in Exhibit R of ARR Page 11, Inter. No 17

Point 4. – The Applicant's buyers are sophisticated and careful buyers as they must be able to access the internet, be able to browse the web, and navigate the website to place an order.

Applicant's buyers can also purchase products at retail locations, tradeshow, etc.

Point 6 – Opposer has not taken action to police the protection of its registered mark, until six years of use by the Applicant, see Exhibit F of ARR and Exhibit C of DKC. Yahoo!, no longer is aiding the Opposer, by blocking others from uses of MESSAGE IN A BOTTLE on its areas of the Internet in deference to Opposer's registered mark.

Point 7 and 8 – The confusion was created by Opposer whom began policing its mark in 2004, causing Yahoo(formerly Overture, Inc) to remove Applicant's website(s) from its search engines, and pay per click advertising. The Opposer created the confusion first, by stopping the Applicant's normal route of communications(search engine listings and pay per click ad) with its customers, and they now seek to profit from the confusion they caused in the first place.

Point 9 – The Applicant submits that it does more than novelty souvenir gift bottles, as stated in its Application Serial No. 78/229,875.

Point 10 – Applicant submits reply in point 9, and Applicant's products are available through other channels, brochures, fliers, tradeshow and other venues.

Point 11 – Opposer has none per its statement in point 11

Point 12 - The confusion was created by Opposer whom began policing its mark in 2004, causing Yahoo(formerly Overture, Inc) to remove Applicant's website(s) from its search engines, and pay per click advertising. The Opposer created the confusion first, by stopping the Applicant's normal route of communications(search engine listings and pay per click ad) with its customers, and they now seek to profit from the confusion they caused in the first place.

REBUTTAL TO OPPOSER'S REBUTTAL TO EVIDENCE

The Applicant submits that each Exhibit presented brings light to the fact that the Opposer did not meet the standards established by TMEP 1402.1. Each exhibit is admissible, and should be taken into record.

REBUTTAL OF AFFIDAVIT OF ROGER ROJAS

Only points which Applicant wishes to rebut or has not been addressed in prior pages will be addressed below

Point 3 – Opposer has not been damaged and will not be damaged, Opposer was even offered a coexistence agreement from Applicant (Exhibit G of DKC).

Point 5 – Opposer admits to using the mark on the same goods the Applicant has used the mark since June 6, 1998. With knowledge of the Applicants use of the mark, see Point 17.

Point 11 – Applicant's Exhibit B in DKC, clearly refutes this as the form simply states "type of business being conducts _____" The line is where you write what you are doing business as.

Point 12 – Per the Opposer's Motion in Support, the Opposer has been actively policing but failed to find this. The description of services clearly and specifically coincide with the Opposer's Marks services.

Point 13 – No evidence has been presented here or through discovery.

Point 15 – Several letters where sent to Yahoo!, starting Jan 2004,(Exhibit C in DKC), Yahoo! no longer is assisting policing. Applicant finds it interesting only the final letter appears as Exhibit F of ARR.

Point 16 – The Applicant being a lay person has scoured this Exhibit G and has found not one service that states printing a message, placing it in a bottle and mailing or shipping it. Every service listed is some form of electronic signal, which is transmitted not shipped, mailed or FedEx. To transmit messages from one person to another (emphasis added), transmission via

telephone lines, airwaves, satellites, the use of a tangible product paper and a bottle are beyond the scope of this.

Point 17 - The confusion was created by Opposer whom began policing its mark in 2004, causing Yahoo(formerly Overture, Inc) to remove Applicant's website(s) from its search engines, and pay per click advertising. The Opposer created the confusion first, by stopping the Applicant's normal route of communications(search engine listings and pay per click ad) with its customers, and they now seek to profit from the confusion they caused in the first place.

Point 19 – Exhibit K of ARR and Exhibit G of DKC, demonstrates communication(s) between Opposer and Applicant, the first is an email from Applicant to Opposer, which has been misinterpreted and taken out of context, as it was written by Applicant, a business owner, and entrepreneur without any legal advice. Applicant stated "similar products", Applicant had no way of knowing based on Opposer's trademark that Opposer was or would be developing a tangible product, I had no knowledge of his website until 2004.

Point 20 Exhibit L of ARR is not the homepage – www.bottlemeamessage.com is the homepage of the Applicant's website, this exhibit is a subsite, for a promotional product, that clearly demonstrates a tangible product, being mailed and delivered by third party. Exhibit M of ARR, the Applicant is not using the mark to describe an order, Opposer is correct, Applicant does use a third party US Postal and Fedex to deliver tangible products.

The Opposer has scoured the Applicants website to demonstrate some shred of evidence that facilitates its position, yet each exhibit only bolsters, the Applicants argument there is no likelihood of confusion.

CONCLUSION

Opposer did not specifically, definitively, clearly, accurately and concisely, defines his services for the mark. The Opposer did properly classify his services. The only party confused appears to be the Opposer.

Applicant has wanted to and continues to want to start a Message in a Bottle Association for all companies providing this special product to customers all over the world. The Applicant values the mark to protect his products, his specific style of the product.

Opposer does not have priority, the Applicant has priority based on actual first use and proper recitation of goods and proper classification. A message in a bottle, as a communication device, is a tangible product, that is generic and merely descriptive. But as a novelty, favor, and

souvenir bottles containing messages and greeting, invitations, promotional materials of others, and advertising materials of others, kits comprised of bottles, paper for creating promotional messages, advertising messages, greeting, message and invitations and packaging and boxes for mailing is unique and one of a kind.

This reply brief as well as the Applicant's motion for summary judgment demonstrates there is no likelihood of confusion. The material presented by Opposer in his motion, taken as a whole actually fortifies the Applicant's position. There is no genuine issue of material fact on the subject of likelihood of confusion. Therefore the Applicant's motion should be granted.

Dated August 23, 2006



Keith Cangiarella

"In Pro Per"

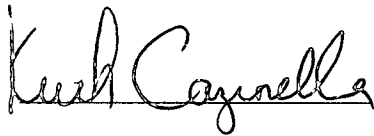
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Date June 30, 2006
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I hereby certify that this correspondence is being deposited with the US postal service as Priority mail in an envelope addressed to: UNITED STATES PATENT AND TRADEMARK OFFICE Trademark Trial and Appeal Board P.O. Box 1451 Alexandria, VA 22313-1451

Certificate of Service

I hereby certify a copy of the foregoing **APPLICANT'S REPLY BRIEF IN SUPPORT OF APPLICANT'S MOTION FOR SUMMARY JUDGEMENT IN OPPOSITION PROCEEDING** was first class mailed to Mr. Peter H. Smith Attorney at law, 1535 J Street, Suite A, PO Box 1867, Modesto, CA. 95353.

A handwritten signature in black ink, appearing to read "Keith Cangiarella". The signature is written in a cursive style with a horizontal line underneath the name.

Keith Cangiarella
August 23, 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Trademark Application Serial No.: 78/229,875 Mark: MESSAGE IN A BOTTLE GOLD SHELLS, INC., a California corporation, Opposer, v. KEITH CANGIARELLA, Applicant.	Opposition No. 91162780 Cancellation No. _____ PETITIONER'S REPLY TO REGISTRANT'S RESPONSE
----- In the Matter of Trademark Registration No.: 2,243,269 Mark: MESSAGE IN A BOTTLE KEITH CANGIARELLA, Petitioner, v. Gold Shells, Inc, Opposer	

PETITIONER'S REPLY TO REGISTRANT'S RESPONSE
"IN PRO PER"

Petitioner Keith Cangiarella, hereby replies to Registrant's Response to Petitioner's Motion for Summary Judgment.

The Trademark Manual of Examining Procedures Chapter 1400 Classification and Identification of Goods and Services, subchapter 1402.01 Specifying the Goods and/or Services – In General

A written application must specify the particular goods or services on or in connection with which the applicant uses or has a bona fide intention to use the mark in commerce.

The identification of goods or services must be specific, definite, clear, accurate and concise.

All parties are responsible clearly describe their goods and services in their recitation as well as properly classifying them. The PTO is not responsible to interpret the goods and services beyond the scope of what is presented to the PTO.

The Registrant has gone through great lengths in its reply, to demonstrate to the Board, it should consider a great many things when in fact it is very simple. The recitation and classification, the Registrant's mark reads – "receiving communications from others, recording such communications in written or printed form, and transmitting such communications to others." If one interprets the recitation without the classification, communication is eventually transmitted with means to send from one person to another, without the assistance of a third party. The Registrant uses a third party to deliver its communications the US postal service.

Next, take into account the recitation and the classification Class 38 – telecommunications – the services are no longer a tangible service but an intangible service.

The Registrant states it did not mention a bottle or paper in the recitation but argues that the specimen filed with statement of use refers specifically to "sending art quality greetings in unique and distinctive bottles", a specific statement of goods and devices involved in the rendering of Registrant's services. Registrant failed clearly and specifically detailed its services in its recitation in 1997, thus committing fraud before the PTO. The TMEP 1402.1 states that the goods and services must be specific, definite, clear, accurate and concise.(emphasis added), by not doing so the Registrant committed fraud.

The Board through its decision of *Medinol Ltd v Neuro Vasx Inc.*, 67 USPQ2d 1205 (TTAB 2003) clearly sent a message to all trademark applicants and registrants that TMEP 1402.1 is and will be taken seriously. Whether it be overstating the goods in the recitation, or understating the services and/or not properly classifying your good and services the Board will not tolerate it.

CONCLUSION

Registrant admits that it did not specifically, definitively, clearly, accurately and concisely recite its services. The Application and Statement of Use was signed by Registrant who knew, or should have known as to the facts pertaining to the services upon which the mark was used. The Office relied upon the Application and Statement of use on that basis. The registration was obtained by fraud and that registration is void.

Dated August 23, 2006


Keith Cangiarella

"In Pro Per"

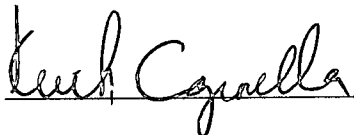
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I hereby certify a copy of the foregoing **PETITIONER'S REPLY TO REGISTRANT'S RESPONSE** was first class mailed to Mr. Peter H. Smith Attorney at law, 1535 J Street, Suite A, PO Box 1867, Modesto, CA. 95353.



Keith Cangiarella
August 23, 2006